

## SUBCOMMITTEE NO. 2

## Agenda

Byron Sher, Chair  
Sheila Kuehl  
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Monday, May 19, 2004  
10:00 a.m.  
Room 4203

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### Resources—Environmental Protection—Public Safety—Energy

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## Vote Only Agenda

The items on the “vote only” agenda were discussed at the May 17 meeting of the Subcommittee, but no votes were taken.

### 3360 Energy Resources Conservation Development Commission

#### 1. California Climate Action Registry

**Background.** The California Climate Action Registry help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied. The registry is also responsible for adopting standards for verifying emissions reductions, establishing emissions reduction goals, designing and implementing efficiency improvement plans, and maintaining a record of emissions reductions as measured against the baseline established by the registry. The 2003-04 Governor’s Budget provided \$200,000 to support the registry in the current year from the Public Interest Energy Research (PIER) Development and Demonstration Account.

**Staff Recommendation.** The subcommittee may wish to adopt the following budget bill language to provide \$200,000 from the PIER fund to support the registry.

*3360-001-0381—Of the amount appropriated in this item, \$200,000 shall be made available for grants to support the California Climate Action Registry program activities.*

### 8660 California Public Utilities Commission

#### 1. California Teleconnect Fund Program

**Background.** The CPUC administers six universal service telephone programs that seek to expand access to telecommunications services. It does so by subsidizing the cost of telephone services for certain people through surcharges applied to telephone customers' monthly bills for in-state services. One of these programs is the California Teleconnect Fund (CTF) program. This program provides discounts on telephone service, and other advanced telecommunication services that provide access to the Internet (such as digital subscriber line [commonly referred to as DSL] services) to schools, libraries, and qualifying hospitals and community-based organizations. Currently, the CTF program provides a 50 percent discount regardless of the particular qualifying service or recipient. Chapter 820, Statutes of 2003 (AB 855, Firebaugh), established the CTF program in statute, although CPUC has been managing a similar program that it established administratively in 1996.

The federal government has a similar program called the E-Rate program. This program provides discounts on the same services as the CTF, but also provides discounts on the purchase and installation of telecommunications hardware. The level of discount received through the E-Rate program is based on the schools participation in the free lunch program. California receives approximately \$330 million annually from the federal E-Rate program.

**Budget Year Funding.** The Analyst finds that the Governor's budget does not provide expenditure authority sufficient to cover all of the projected CTF program expenditures in the budget year. The commission has informed staff that it will need approximately \$18 million in the budget year to cover all program expenditures in 2004-05. In the 2003-04 Budget Act \$150 million was loaned from the CTF to the General Fund. The budget does not propose to repay this loan even though Chapter 820 requires that this loan be repaid when the CTF program needs the funds to meet program requirements. The Analyst finds that the Legislature has the following choices for providing additional funding to the commission to support the CTF program:

- Direct CPUC to raise the CTF surcharge (currently suspended). A 0.1 percent surcharge applied to intrastate telephone calls would yield approximately \$20 million.
- Repay a portion of the General Fund loan, which would increase General Fund expenditures by about \$12.7 million.

**LAO Recommendation.** The Analyst finds that the CTF program could be improved and makes the following recommendations relative to the CTF program:

- **CTF Program Does Not Maximize Federal Funds.** The CPUC does not require schools and libraries to participate in the federal E-Rate program as a condition of eligibility for the CTF program. This results in increased costs to the state's program and a loss of available federal funds. The Analyst recommends legislation that requires that eligible schools and libraries participate in the federal E-Rate program as a condition for participating in the CTF program.
- **CTF Program More Effective if Discounts Targeted.** Recent legislation has expressed legislative intent that a priority for the state's telecommunications policy is to assist in bridging the "digital divide." However, the current CTF program does not target its discounts and instead provides a 50 percent discount to all qualified participants. The federal E-Rate program provides discounts on a sliding scale based on participation in the free lunch program. Since the CTF discount is applied after the E-Rate discount the need-based targeting of the federal program is reduced, since more CTF funds are provided to schools with fewer students from low-income families. The Analyst recommends legislation that would require CPUC to adopt criteria for targeting discounts from the CTF program to low-income and rural individuals that are typically the most affected by digital divide issues.
- **Program Funding Parameters Would Improve Legislative Oversight.** There are no limits on the number of participants or level of subsidies awarded in the CTF program. Instead, CPUC is given broad authority to administer the CTF program, including the authority to raise the surcharge that supports this program to cover increased program costs. The Legislature does exercise spending control over the program through the annual budget appropriation. However, there is no legislative control over the surcharge rate or program revenues. The Analyst recommends legislation that sets a statutory cap on annual CTF program expenditures to improve legislative oversight of the program.

**Staff Recommendation.** Staff recommends the following:

- (1) Increase expenditure authority from CTF by \$12.7 million to cover all CTF program costs in 2004-05 using revenues from an increase in the CTF surcharge on telephone users.
- (2) Adopt trailer bill language that limits the CTF subsidy only to the remaining portion of telecommunications bill after application of the federal E-Rate subsidy for eligible schools and libraries (regardless of whether they participate in E-Rate). Apply the federal need-based sliding scale to the Teleconnect discount for schools. Make these provisions effective July 1, 2005 to allow time for schools to apply to the E-Rate program and plan for potential reductions in CTF discounts.

*The subcommittee adopted the following language at the May 17 meeting of the Subcommittee:*

- (3) Adopt supplemental report language directing CPUC to report to the Legislature by February 1, 2005 with (a) an estimate of the program savings resulting from the adoption of the need-based sliding scale for schools and from applying the E-Rate discount prior to any CTF discount, (b) recommendations for alternative uses for CTF funds to most effectively address the Digital Divide, and (c) an estimate of the surcharge level needed to meet the needs of the CTF program.

## **8665 California Consumer Power and Conservation Financing Authority**

**Background.** The CPA was established during the height of the energy crisis that started in 2000 with the broad charge of assuring a reliable supply of power to Californians at just and reasonable rates, including planning for a prudent energy reserve. In order to meet these goals, CPA was authorized to purchase, lease, or build new power plants using its revenue bonding authority to supplement private and public sector power supplies, and was granted eminent domain powers. These significant powers reach beyond those of other state energy agencies. It was intended that CPA would be able to exercise these powers in the event that the market did not produce enough electricity to serve all of the state's needs.

In addition to these core powers, CPA was also charged with encouraging energy conservation and the use of renewable energy sources. It was also given the authority to finance natural gas transportation and storage projects recommended by the California Public Utilities Commission (CPUC), as well as to provide financing to retrofit old and inefficient power plants. Finally, CPA was also required to develop an energy resource investment plan for California.

**LAO Recommendation.** The Analyst finds that the elimination of some of CPA's functions may be premature and provides the following options for retaining these functions:

- (1) **Option One: Retain CPA, But Only as a Self-Supporting Entity.** This option would allow the state to continue to retain the authority to augment energy supplies if needed, until adequate incentives are in place to assure a sufficient energy supply to meet future demand. However, the Analyst thinks the role of CPA should be evaluated as policy changes continue to be made in the future.

- (2) **Option Two: Transfer Certain Functions to Other Existing Agencies.** This options would transfer the bonding authority so that the state could retain its ability to finance power plants if needed. The CPA's bonding authority could be transferred to an existing financing authority, which has a consistent mission with CPA's bond financing authority (for example, the California Infrastructure Bank). Furthermore, The Analyst would also recommend transferring CPA's Demand Reserve Partnership Program to another entity so that it may continue to provide energy savings over the next several years (CPA's program currently has a contract to deliver energy savings that does not expire until 2007). This program could be transferred to another existing state agency involved in promoting energy conservation, such as CEC.

**Staff Comments.** Staff recognizes that CPA has not been able to carry out its mission due to market influences. However, since CPUC is still in the relatively early stages of implementing Chapter 835, Statutes of 2000 (AB 57, Wright) there is still uncertainty regarding whether this law will provide sufficient incentives to build new generation to meet the state's future electricity demands. Given this, staff agrees with the LAO that it is premature to eliminate CPA's functions.

The administration has indicated to staff that it is developing a more comprehensive proposal to reorganize the state's energy agencies. Staff thinks it would be more appropriate to evaluate the future of CPA and its functions in the context of this comprehensive plan.

**Staff Recommendation.** Staff recommends the Subcommittee *adopt the Analyst's Option One to retain the CPA as a self-supporting agency.* This action would:

- (1) Reject the administration's proposed trailer bill to eliminate CPA.
- (2) Increase CPA's budget by \$800,000 to cover reduced operations funded solely from CPA generated revenues.

## 8770 Electricity Oversight Board

**Background.** The Electricity Oversight Board (EOB) was created by Chapter 854, Statutes of 1996 (AB 1890, Brulte), which deregulated California's wholesale electricity industry. The board was created to oversee the California Independent System Operator (ISO), which manages the transmission grid serving most of California, and the Power Exchange (PX), which for a time was the marketplace in which all electricity in the state was bought and sold. The EOB was also given very broad authority over ensuring reliability of the state's supply of electricity.

**Background.** Central to the original role of the EOB was overseeing the activities of the ISO and the PX and determining the composition of the governing boards of these two organizations. However, among the many developments associated with the 2001 energy crisis was the bankruptcy of the PX in January, and the replacement of the EOB-appointed ISO stakeholder board with a board of gubernatorial appointees. Thus, the EOB's original duties have drastically changed.

The EOB has reported to staff that it is presently involved in the following activities:

- **Market Monitoring.** This includes market investigation, market rate complaints, and market redesign proceedings.
- **Monitoring ISO Operations.** This includes evaluating the operations of ISO administered markets, operations of the transmission system, transmission planning, and the reasonableness of the costs of ISO services.
- **FERC Representation.** This includes representing California policy and consumer interests regarding wholesale markets and transmission system operations at the Federal Energy Regulatory Commission.
- **Power Exchange Oversight.** The EOB continues to represent California's public interests related to the wind-up of the California PX. (More than \$1 billion in outstanding claims remain.)

**Staff Comments.** There has been concern regarding the number of separate boards and commissions that currently implement the state's energy policy. The administration has indicated to staff that it is developing a comprehensive proposal to reorganize the state's energy agencies. Staff believes that the EOB's core activities are important to continue, but does not believe a separate board structure is needed to carry out these functions effectively. Furthermore, staff believes that litigation related to the energy crisis could be consolidated at the AG's office. This would give EOB staff more time to focus on issues at FERC and the ISO that affect the current and future wholesale electricity market in California.

**Staff Recommendation.** Staff recommends the Subcommittee take the following actions:

- (1) **Eliminate the board structure** and transfer EOB litigation related to the energy crisis to the AG, except for those cases when the AG has a direct conflict. Transfer EOB staff to the Governor's Office of Planning and Research until a more comprehensive evaluation of all the state's energy related agencies has been performed.

**The Subcommittee adopted the following language at the May 17 meeting of the Subcommittee:**

- (2) **Adopt supplemental report language** to require EOB staff to report to the Legislature on:  
(a) the reasonableness of costs to California consumers of ISO operations and (b) the susceptibility of California's wholesale electricity market to future failures and recommendations to protect the public from wholesale market failures.

## 3720 California Coastal Commission

### 1. Alternative Funding Source for Coastal Commission's Permitting Functions

**Subcommittee's Previous Direction.** At the April 1 meeting of this subcommittee staff were directed to develop trailer bill language that would direct the Coastal Commission to increase its fees. The subcommittee also directed that the trailer bill language amend current law that requires all permit revenues to be transferred to the State Coastal Conservancy, thereby allowing

a portion of these revenues to be deposited in the General Fund to support the commission's permitting functions.

***Staff Recommendation.*** Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix A**. The language does the following:

- (1) Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- (2) Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

## 3790 Department of Parks and Recreation

### 1. April Finance Letter—Excluding Resources Bond Funds

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Parks and Recreation (DPR). The following listing excludes resources bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

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#### Department of Parks and Recreation

##### April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	Reim- bursements	Total	Positions
<b>Joint Communication Services.</b> Proposes to transfer 7 permanent positions on a two-year limited term basis to Department of Parks and Recreation from Department of Fish and Game (DFG) and increased reimbursements to provide statewide dispatch services for DFG as part of a cooperative joint venture to allow DFG to gain 24-hour communications to help ensure warden safety and timely responses to oil spills.	\$417	\$417	7.0
<b>Total</b>	<b>\$417</b>	<b>\$417</b>	<b>7.0</b>

The administration has also submitted amendments to its April finance letters. The following reappropriations for capital outlay projects at DPR were included as amendments to the April finance letter.



**Department of Parks and Recreation****April Finance Letter Amendment - Capital Outlay Reappropriations, 2004-05***(Dollars in Thousands)*

<b>Description</b>	<b>Prop 12</b>	<b>Prop 40</b>	<b>Special Funds</b>	<b>Total</b>
<b><i>East Bay Regional Park District.</i></b> Proposes to reappropriate bond funds to complete public park improvements in the East Bay Shoreline. The project required a comprehensive environmental review resulting in delay.	\$1,201	-	-	\$1,201
<b><i>Statewide Opportunity Acquisitions.</i></b> Proposes to reappropriate bond funds to make opportunity land purchases.	3,000	-		3,000
<b><i>Statewide Redwood Acquisitions.</i></b> Proposes to reappropriate bond funds to make opportunity Redwood-related acquisitions.	679	-	-	679
<b><i>Statewide Habitat Acquisitions.</i></b> Proposes to reappropriate bond funds to make habitat acquisitions.	4500	-	-	4,500
<b><i>Topanga State Park.</i></b> Proposes to reappropriate bond funds for Topanga Canyon acquisitions that have been delayed because of tenant appeals and legal challenges.	1,191	-	-	1,191
<b><i>Pfeiffer Big Sur State Park.</i></b> Proposes to reappropriate bond funds for constructing a park entrance and day use redevelopment project that was delayed by the process of acquiring a local coastal permit.	3,222	-	-	3,222
<b><i>Pigeon Point Light Station State Historic Park.</i></b> Proposes to reappropriate bond funds for acquiring land at Bolsa Point/Whaler's Cove.	3,999	-	-	3,999
<b><i>Habitat Conservation Acquisitions.</i></b> Proposes to reappropriate funds for habitat-related land acquisitions.	-	-	508	508
<b><i>Oceano Dunes State Vehicle Recreation Area.</i></b> Proposes to reappropriate funds for acquisition of the La Grande Tract.	-	-	2,899	2,899
<b><i>Statewide Off-Highway Vehicle Opportunity Acquisitions.</i></b> Proposes to reappropriate funds to make opportunity acquisitions for the off-highway vehicle program.	-	-	328	328
<b><i>Leland Stanford Mansion State Historic Park.</i></b> Proposes to reappropriate bond funds for construction related to rehabilitating the mansion grounds.	-	2,121	-	2,121
<b>Total</b>	<b>\$17,792</b>	<b>\$2,121</b>	<b>\$3,735</b>	<b>\$23,648</b>

***Staff Recommendation.*** No issues have been raised with the administration's April finance letter for DPR or the proposed amendments. ***Staff recommends approving the finance letter and the amendments.***

## 2. Governor's Park Fee Proposal

**Subcommittee's Previous Direction.** At the April 1 meeting of the Subcommittee, staff was directed to develop supplemental report language with the LAO and the administration to require the department to report on the impacts of the administration's new fee policy and to include the broad policy directives recommended by the LAO. The Analyst has drafted the following language. Staff has been informed that both the department and DOF are fine with the language.

### Item 3790-001-0001—Department of Parks and Recreation

1. The Department of Parks and Recreation shall, on or before January 10, 2005, submit to the budget and fiscal committees of both houses and the Legislative Analyst's Office a report on its progress in implementing a new fee structure for the Department of Parks and Recreation. The report shall include:

- Fee schedule for all units of the state park system.
- Actual monthly revenue collections for day use, camping, and other fees through October 2004.
- An analysis, based on actual revenues received to date, on whether the department will reach its total revenue projections as enacted in the 2004-05 Budget Act.
- Monthly visitor attendance for 2003-04 and 2004-05 (to date).

2. It is the intent of the Legislature that the setting and collecting of park fees should be guided by the following policy parameters:

- **The Role of Fees in State Park Funding.** Funding for state parks should include a reasonable sharing of costs between the users of state parks and the general public.
- **Fee Structure Should Include Differential Pricing.** The fee structure should reflect the different levels of service and facilities that are offered by state parks.
- **Fees Should be Comparable With the Fees of Similarly Situated Recreational Providers.** Fees for the use of state parks should be comparable with the fees for the use of similar privately and publicly owned facilities in the vicinity of the state park.
- **Fee Collection Should Be User-Friendly and Convenient to Park Users.** Visitors should be offered convenient methods of payment (such as automated fee machines and payment) in order to facilitate fee collection.
- **Fees Should Be Used to Support Deferred Maintenance When Feasible.** The department should maintain a portion of the fee revenues when feasible at the site where they are collected in order to address deferred maintenance needs.

**Staff Recommendation.** Staff recommends the Subcommittee *adopt the supplemental report language*.

## 2. California Main Street Program

**Background.** The California Main Street Program (CMSP) was developed to save historic commercial architecture, but has also provided economic development opportunities and opportunities to enhance the social, cultural, and environmental well being of traditional commercial districts in California. The California program is part of the National Main Street program, which is part of the National Trust for Historic Preservation. The California program does not provide funding to local communities for revitalization projects, but does provide a network of information and technical assistance to assist local communities in successful main street redevelopment projects that focus on historic preservation.

**Recent Budget Reductions.** Funding to support CMSP was eliminated in 2002-03. Subsequently, the agency that managed the program, the Technology, Trade, and Commerce Agency, was also eliminated. The program as administered by TTCA had a General Fund cost of \$350,000.

**Recent Legislation.** In 2003, AB 1123 (Parra) sought to move CMSP from TTCA to the Department of Parks and Recreation's (DPR's) Office of Historic Preservation (OHP). The OHP is responsible for statewide administration of the historic preservation program in California, including local outreach activities. The office's local outreach activities include certification of local preservation programs and technical assistance to communities. These activities are similar to activities performed by CMSP.

**Staff Recommendation.** (1) The Subcommittee may wish to adopt trailer bill language that would establish the California Main Street Program within the Office of Historic Preservation at the Department of Parks and Recreation. (2) To support this program, the Subcommittee may wish to increase the department's expenditure authority by \$175,000 from a new California Main Street Program Fund established by the trailer bill language to support 2 positions. Revenues to this fund are not on deposit, but could include funds received from any of the following sources in the budget year: (1) private contributions, (2) federal funds, and/or (3) fees for services provided by the department for services related to the California Main Street Program. Given the state's General Fund shortfall staff does not recommend dedicating additional General Fund resources to this program at this time.

### 3. Various Requests

**Summary.** Staff has been notified that action on the following items has been requested:

- (1) City of Santa Monica—Reappropriation of \$350,000 for EIRs and planning related to the 415 PCH Project at Santa Monica Beach.
- (2) Pigeon Point State Historic Park—Reappropriation of \$5 million for acquisition of the Pigeon Point Light Station State Historic Park: Bolsa Point/Whaler's Cove.
- (3) Adopt trailer bill language to amend the scope of Mono Lake Tufa State Reserve.

**Staff Recommendation.** The Subcommittee may wish to adopt the following language to facilitate the actions listed above.

*3790-492—Reappropriation, Department of Parks and Recreation.*

*Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2005:*

*0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund*

- (1) *Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)*  
*(15) 90.FH.100—Santa Monica SB:415 PCH Project – EIRs and Planning*
- (2) *Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)*  
*(13) 90.7T.400—Pigeon Point Light Station SHP: Bolsa Point/Whaler's Cove—Acquisition*
- (3) *Item 3790-201-0005, Budget Act of 2001 (Ch. 106, Status. 2001)*  
*(29) 90.RS.416—Statewide: 2000 Bond Habitat Acquisition Program—Acquisition.*

Amend PRC:

5045. (a) The tufa and associated sand structures at Mono Lake are a valuable geologic and scientific natural resource and are unique in North America for their beauty, abundance, diversity, and public accessibility. Their extreme fragility requires special measures for their protection and preservation for the enjoyment and education of the public. (b) The Mono Lake Tufa State Reserve is hereby established as a unit of the state park system and shall consist of the state-owned portions of the Mono Lake bed lying at or below the elevation of 6,417 feet above sea level. As soon as practicable after January 1, 1982, the State Lands Commission shall issue a permit for occupancy to the department pursuant to Section 6221. (c) *The Mono Lake Tufa State Reserve shall include and shall manage all resources found on its lands, including the waters of the Mono lake.*

## 8570 California Department of Food and Agriculture

### 1. Position Management

**Previous Subcommittee Direction.** At the March 18 meeting of the Subcommittee, the Subcommittee directed staff, LAO, and the California Department of Food and Agriculture (CDFA) develop trailer bill language that requires the department to comply with standard administrative procedures related to establishing new positions. This direction was in response to findings by the Analyst that the department currently has over 500 permanent positions in its position blanket. (The position blanket at the State Controller's Office (SCO) is typically utilized to establish short-term positions for addressing emergencies or peak-workloads.) The Analyst made findings that CDFA's current position management practices limit legislative oversight and recommends CDFA follow normal administrative practices for establishing permanent positions.

**Department's Concerns.** The CDFA continues to maintain that they need to be able to establish permanent positions outside of normal state administrative procedures. They cite the need to hire highly qualified scientists and other experts quickly on a permanent basis to address food and other human-health emergencies as one of the reasons they need increased flexibility. However, the department has not been able to make sufficient determinations as to why its operations differ significantly from other departments that also address emergencies in the state such as the Department of Health Services and the Office of Emergency Services.

**Staff Recommendation.** Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix A**. The language does the following:

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

### 2. April Finance Letter

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CDFA.

**California Department of Food and Agriculture****April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	General Fund	Personnel Years
<b><i>Mediterranean Fruit Fly Preventative</i></b>	\$8,021	132.0
<b><i>Release Program.</i></b> Proposes a one-time appropriation to continue this program in the budget year.		
<b>Total</b>	<b>\$8,021</b>	<b>132.0</b>

**Background.** The Mediterranean Fruit Fly Preventative Release Program (Medfly program) involves raising sterile medflies and releasing them throughout the Los Angeles Basin. Program costs have historically been shared equally between the state and the federal government.

**LAO Recommendation.** The Analyst recommended in 2003 the enactment of legislation authorizing CDFA to assess fees for the nonfederal cost of the Medfly program. The Analyst finds that benefits from the Medfly program are directly accrued by fruit growing industries in southern California.

**CDFA's Supplemental Report Response.** In 2003, supplemental report language was adopted by the Legislature to require the department to report on alternative funding mechanisms for supporting this program in order to reduce General Fund expenditures. The department concluded that any industry assessment would need to be applied to California growers as well as imported food items and would require federal authorization. Furthermore, the department concluded that additional federal funding would also be difficult to secure without a sufficient state match.

**Staff Recommendation.** Staff recommends approving this proposal. (See Item 3 – General Fund Budget for related recommendations.)

### 3. General Fund Budget

**Previous Subcommittee Direction.** At the March 18 meeting of the Subcommittee, the Subcommittee directed the department and DOF to develop options for reducing CDFA's General Fund budget an additional 5 percent and 10 percent. Staff has not received options from the department for additional General Fund savings. However, the department did provide the following detail on its General Fund expenditures.

**California Department of Food and Agriculture**  
**General Fund Budget Detail, 2004-05**  
*(Dollars in Thousands)*

<b>Description</b>	<b>General Fund</b>
<b>Animal Health and Food Safety Services</b>	<b>\$22,742</b>
Animal Health and Food Safety Services.	7,880
California Animal Health and Food Safety Laboratory System.	10,620
Meat and Poultry Inspection.	2,682
Milk and Dairy Foods Control.	1,560
<b>Agricultural Plant Health and Pest Prevention</b>	<b>\$50,366</b>
Exclusion of Plant, Pests, and Disease.	11,310
Integrated Pest Management.	2,589
Pierce's Disease.	4,408
Pest Detection and Emergency Projects.	17,107
Plant Diagnostics Lab.	5,403
Mediterranean Fruit Fly Preventative Release Program.	8,021
Sterile Fruit Fly Production Facility.	1,528
<b>Measurement Standards</b>	<b>\$1,922</b>
<b>General Agricultural Activities</b>	<b>\$85</b>
Agricultural Export Program	85
<b>Local Assistance</b>	<b>\$5,911</b>
Agricultural Plant Health and Pest Prevention.	5,528
General Support.	383
<b>Total</b>	<b>\$81,026</b>

**Governor's Budget.** The Governor's budget proposes to redirect \$4.5 million from the County Agricultural Commissioners' (CACs') pest exclusion activities in order to restore funding for the state border inspection stations.

**County Agricultural Commissioner's Pest Exclusion Activities Reduced.** The \$4.5 million reduction in the CACs' pest exclusion activities has resulted in an 80 percent reduction to the CACs' high-risk pest exclusion activities. This has reduced the effectiveness of the border inspection station program since CACs are responsible for more detailed inspections of agricultural product shipments after they cross the border.

**Staff Recommendation.** The Subcommittee may wish to take the following two actions:

- (1) Reduce \$2.5 million General Fund from the department's state operations for agricultural plant health and pest prevention and augment local assistance to the County Agricultural Commissioners by a similar amount to fund county high-risk pest exclusion activities. This should help to make the investments in state's border inspection stations more effective since local CACs will have more resources available for detailed inspections of agricultural product shipments from out of state. An unallocated reduction will enable the department to prioritize its current expenditures in this area to address the state's greatest needs.

- (2) Increase the department's state operations budget for agricultural plant health and pest prevention by \$2.5 million from the department's Agriculture Fund. This will allow the department to expend any contributions made by the agricultural industry in the budget year to fund programs reduced due to the shift of General Fund to the CACs. This is consistent with the LAO's recommendation to require industry contributions for support of the Medfly program.
- (3) Given the state's current General Fund condition, the subcommittee should also eliminate General Fund support for the Pierce's disease program, thereby saving the state \$4.4 million General Fund.

#### 4. Capital Outlay

**Previous Subcommittee Direction.** At the March 18 meeting of the Subcommittee, the Analyst raised concerns with the department's proposal to spend \$416,000 from the Agriculture Fund for preliminary plans, working drawings, and construction to repair an existing Medfly rearing facility in Waimanalo, Hawaii. The Analyst was concerned that the proposal was to fund repairs to an existing facility, which would have been more appropriately funded by the department's operating expenses. The department has since revised its proposal and the Analyst no longer has its concerns. The following is a summary of all of the department's capital outlay proposals for the budget year.

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##### California Department of Food and Agriculture

##### Capital Outlay Budget Change Proposals and April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Lease Revenue Bonds	State Highway Account	Total
<b>Truckee Agricultural Inspection Station.</b> Proposes to relocate the current inspection station. The new station will be built east of the town of Truckee on property near the California Highway Patrol's existing weigh station. Proposal funds working drawings and construction of the project.	\$12,824	\$6,412	\$19,236
<b>Hawaii Medfly Rearing Facility Upgrades.</b> Proposes to make refinements to the heating, cooling, humidification, and ventilation systems of this facility. Proposal funds preliminary plans, working drawings, and construction costs.	416	-	416
<b>Yermo Agriculture Inspection Station.</b> Proposes to reappropriate funding to complete working drawings and construction to relocate this station. Project was delayed due to environmental mitigation issues.	0	-	0
<b>Hawaii Medfly Rearing Facility.</b> Proposes to reappropriate \$583,000 for working drawings and \$10.4 million for construction of this facility due to delays in lease negotiations with the state of Hawaii.	0	-	0
<b>Total</b>	<b>\$13,240</b>	<b>\$6,412</b>	<b>\$19,652</b>



***Staff Recommendation.*** Staff recommends approving the department's capital outlay April finance letter.

## 0540 Secretary for Resources

### 1. May Revision—Restructuring of Office of the Secretary for Resources

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee, the Subcommittee requested additional information on the administration's proposal to restructure the Office of the Secretary for Resources. The Subcommittee requested the administration provide a description of activities and positions funded as part of the Secretary's support budget as part of the restructuring proposal.

**Governor's May Revision Proposal.** As part of the May Revision the administration has proposed its plans to restructure the Office of the Secretary for Resources. The administration's proposal essentially leaves the funding level for the Secretary for Resources the same as was proposed in the Governor's January budget. This includes \$2.6 million from the Environmental License Plate Fund for support of the Secretary's core functions and \$4.2 million for administration associated with various bond programs. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Secretary for Resources.

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#### Secretary for Resources

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Positions
<b>Reorganization Plan.</b> Proposes to redirect permanently \$2.6 million Environmental License Plate Funds (ELPF) from the California Legacy Project to fund its core mission of program development, interdepartmental coordination, and oversight functions. Proposes to terminate the California Legacy Project, including 2 positions that supported this project.	\$0	-2.0
<b>Total</b>	<b>\$0</b>	<b>-2.0</b>

**Details of Restructuring Proposal.** The administration has provided a description of the activities and positions funded under the Office of the Secretary for Resources. These details are summarized below.

**Secretary for Resources****Detail on Funding Source and Positions by Agency Function, 2004-05***(Dollars in Thousands)*

<b>Description</b>	<b>Fund Source</b>	<b>Positions</b>
<b>Core Functions.</b> This will include policy coordination and oversight of the constituent departments in areas such as fiscal, legal, and legislative affairs, among others.	ELPF	21.3
<b>California Environmental Resources Evaluation System (CERES).</b> This will include continued maintenance of an information system developed to facilitate access to a variety of electronic data related to natural resources.	ELPF	4.0
<b>Bond Oversight and Project Management.</b> This will include oversight of Propositions 12 and 50, website development and management, as well as, program delivery for statutory programs funded from Propositions 12, 13, 40, and 50.	Bonds	11.3
<b>Total</b>	<b>\$6,802</b>	<b>36.6</b>

**Staff Recommendation.** No issues have been raised with the administration's May Revision for the Secretary for Resources. **Staff recommends approving the May Revision for the Secretary for Resources.**

## 2. April Finance Letter—Bond Proposal

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee the bond proposal for the Secretary for Resources was left open pending additional details on the administration's plans to restructure the Office of the Secretary. The May Revision provided details on that proposal as noted above. The following is a summary of the budget amendments requested in the 2004-05 April finance letter for the Secretary for Resources, that the Subcommittee left open.

**Secretary for Resources****April Finance Letter (Excluding River Parkways and Sierra Nevada Cascade Programs), 2004-05**  
(Dollars in Thousands)

Description	Prop 40	Prop 50	Total	Positions
<b>Urban Streams Reappropriation.</b> Proposes to reappropriate \$4.6 million Proposition 40 for the urban streams program that provides technical and financial assistance to local agencies to address local flooding and erosion problems. The program was delayed by one year because of legal issues relating to prevailing wage regulations. The Department of Water Resources administers the program.	\$0	-	\$0	0.0
<b>Proposition 50 Website Development.</b> Proposes to shift funds to the Department of Parks and Recreation for the development of a website that would allow the public to identify the geographic location of Proposition 50 funded projects.	-	-68	-68	-0.5
<b>Administration.</b> State operations support for the River Parkways and Sierra Nevada Cascade Programs.	-	633	633	4.0
<b>Total</b>	<b>\$0</b>	<b>\$565</b>	<b>\$565</b>	<b>3.5</b>

**Staff Recommendation.** No issues have been raised with the administration's April finance amendments listed above. *Staff recommends approving the April finance amendments listed above.*

### 3. River Parkways and Sierra Nevada Cascade Program

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee, staff was directed to develop trailer bill language to provide program criteria that would guide the implementation of both the River Parkways and Sierra Nevada Cascade programs. Staff was also directed to include the appropriation in the trailer bill. The Governor propose to expend \$38.4 million (\$7.9 million Proposition 40 and \$30.5 million Proposition 50) for the River Parkways program and \$9.2 million Proposition 50 for Sierra-Nevada Cascade Program.

**Staff Recommendation.** Staff recommend the Subcommittee adopt the trailer bill language as outlined in Appendix A. The language accomplishes the following:

- Adopt trailer bill language to develop a framework for the award of grants under the River Parkways program.
- Appropriate, in the trailer bill, the \$38.35 million from Propositions 40 and 50 for the River Parkways Program.
- Require a report by the Agency on the geographic distribution and types of projects, as well as other details.
- Adopt trailer bill language creating the Sierra Nevada-Cascades Program, to provide a framework for the award of grants under this program.
- Appropriate, in the trailer bill, the \$9.15 million from Proposition 50 for the Sierra Nevada-Cascades Program.

## 4. Various Requests

**Summary.** Staff has been notified that action on the following items is requested:

- (1) Coastal Resources Grants—Extend liquidation period for 40 grants provided to counties to mitigate impacts of offshore oil/gas development and improve coastal resources.

**Staff Recommendation.** The Subcommittee may wish to adopt the following budget bill language to facilitate the action listed above.

*0540-361-- Extension of liquidation period, Resources Agency. Notwithstanding any other provision of law, funds appropriated in the following citations shall be available for liquidation until June 30, 2005:*

*0540-Coastal Resources Grant Program:*

- (1) Item 0540-101-0001, Budget Act of 1999 (Ch. 50 Stats. 1999).*
- (2) Item 0540-101-0001, Budget Act of 2000 (Ch. 52 Stats. 2000).*
- (1) Item 0540-101-0001, Budget Act of 2001 (Ch. 106 Stats. 2001).*

## 5. Reform State Property Management Functions

**Governor's May Revision.** As part of the Governor's May revision the administration has proposed reform to the state's property management functions. Specifically, the administration proposes trailer bill language to do the following:

- Establish a policy and process to consolidate the management of the State's real property assets, with primary authority vested in a single entity.
- On an interim basis, direct departments to obtain approval from the State Public Works Board for any new acquisition, disposal, lease, or major capital alteration of property owned by the State.
- Direct the State and Consumer Services Agency to implement these reforms.

In addition, the May Revision proposal includes an increase in General Fund revenue of \$50 million in 2004-05 and \$200 million in 2005-06 associated with the sale of surplus property. In order to achieve this revenue and expedite the process of disposing surplus property the administration is also proposing additional trailer bill language to do the following:

- Authorize the Department of General Services to declare property surplus and provide notice to the Legislature of this determination prior to disposing of the property.
- Eliminate existing requirements to offer surplus property to local governments prior to public sale.
- Eliminate existing requirements that the state sell surplus property to local government entities for less than market value under certain circumstances.
- Provide state agencies with a limited-term opportunity to earn fiscal incentives for the identification of surplus property that is ultimately sold.

**Staff Comments.** Since the release of the May Revision, staff has not been able to gather sufficient information to fully understand the impacts of the Governor's proposal to reform

current state property management functions. Staff believes that any reforms could have significant policy implications on the state's resources-related objectives in land acquisition.

***Questions the Subcommittee may wish to ask the administration.***

- What are the specific impacts of this proposal on land acquisition practices of each of the departments under the Resources Agency?
- Is it possible that parkland or other land acquired for habitat conservation purposes could be identified as surplus property? If so, under what circumstances?

***Staff Recommendation.*** Staff recommends the Subcommittee request Senate Budget Subcommittee 4 (the Subcommittee with jurisdiction over this issue) to refer this trailer bill to policy committee so that all the implications for resources-related acquisitions can be discussed.

## 3340 California Conservation Corps

### 1. Funding Corps Activities

**Previous Subcommittee Direction.** At the April 1 meeting of the Subcommittee staff was directed to develop a proposal that utilized Workforce Investment Act (WIA) funds to help mitigate the negative impacts of the General Fund reductions proposed to the California Conservation Corps (Corps). Subsequently, at the April 29 meeting of the Subcommittee action was taken to require the California Department of Forestry and Fire Protection (CDF) to utilize the Corps for 50 percent of its proposed fuel reduction activities and to utilize a portion of WIA funds for training corpsmembers for fuel reduction activities.

**New Proposal.** Since the aforementioned action was taken, CDF has indicated to staff that this proposal would be difficult to implement since CDF plans to distribute these funds primarily to local governments and private landowners. In response to CDF's concerns staff and the Analyst developed a smaller proposal that would utilize a small portion of the funds proposed for allocation to CDF for fire suppression activities, as well as WIA funds. This proposal would cost \$1.5 million from all funding sources and provide the following:

- 75 new corpsmembers.
- Corpsmembers will get training in fire fighting and prescribed fire methods. The training will be similar to the two-week fire training CDF provides to inmates.
- 4 additional trained fire crews to assist on wildland fires.
- Corps will perform about 3000 hours (about 1 week for each corpsmember) of prescribed fire work under the supervision of CDF. This work will be considered "on the job" fire training and funded as part of the WIA training program.
- Corps will perform an additional 4000 hours of prescribed fire work on a reimbursable basis from CDF at about \$12 hour.
- Corps will contract for about 50,000 hours of work from grantees under the Prefire Management Program (PMP). Applicants to the PMP program who meet the criteria established by CDF and propose projects that use the Corps will receive priority consideration. \$600,000 from this program will be dedicated to fund the Corps work in the PMP.
- Corps will track the performance of the 75 participating corpsmembers.
- Corpsmembers in this proposal will spend at least 30 percent of their time on reimbursable projects beyond this proposal.

**Staff Recommendation.** Staff recommends the Subcommittee adopt the proposal (to be referred to as the Corps/CDF fuels management partnership) outlined above. The Subcommittee should take the following actions:

- (1) Adopt budget bill language that requires CDF to dedicate 1) \$600,000 for contracts awarded under the Prefire Management Program and; 2) \$25,000 for prescribed fire activities to the Corps.
- (2) Increase the Corps reimbursements from work performed by the corpsmembers by \$545,000.
- (3) Adopt budget bill language that authorizes up to \$310,000 in WIA funds from sub-schedule 8, "Removing Barriers for Special Needs Populations" for fire and fuel reduction training for the Corps.
- (4) Adopt budget bill language allocating \$25,000 of the Corps bond funding for prescribed fire efforts in partnership in with CDF.

## 2. April Finance Letter—Bond Proposal

**Summary.** The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for Corps.

### California Conservation Corps

#### April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	Proposition		Total	Positions
	12	40		
<b>Resource Conservation Projects--</b>	\$633	\$1,224	1,857	0.0
<b>Support.</b> Proposes to fund various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.				
<b>Resource Conservation Projects--</b>	2,550	4,003	6,553	0.0
<b>Local Assistance.</b> Proposes to provide grants to local conservation corps for various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.				
<b>Total</b>	<b>\$3,183</b>	<b>\$5,227</b>	<b>\$8,410</b>	<b>0.0</b>

**Staff Recommendation.** Staff recommends approving the administration's bond proposal. This action conforms to the prior action that redirected \$25,000 of the state Corps Proposition 12 funding to the Corps/CDF fuel management partnership.



### 3. April Finance Letter—Capital Outlay

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 capital outlay April finance letter for the Corps.

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#### California Conservation Corps

##### April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
<b>Capital Outlay.</b> Proposes to defer the preliminary plans phase of the Sierra Placer Municipal Sewer Connection project.	-29	-29	0.0
<b>Total</b>	<b>-\$29</b>	<b>-\$29</b>	<b>0.0</b>

**Staff Recommendation.** No issues have been raised with the administration's capital outlay April finance letter for the Corps. *Staff recommends approving the April finance letter proposals listed above.*

### 4. May Revision

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Corps.

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#### California Conservation Corps

##### May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Positions
<b>Reduce Administrative Staff.</b> Proposes to reduce administrative operations at the Corps.	-\$678	-7.0
<b>Los Padres Facility.</b> Proposes to continue operations at the Los Padres residential facility in San Luis Obispo. Facility was proposed to be closed in the January 10 budget due to the Corps General Fund reduction. Proposes to fund operations of the facility out of existing budget, but positions need restored.	0	14.0
<b>Total</b>	<b>-\$678</b>	<b>7.0</b>

**Staff Recommendation.** Staff recommends the subcommittee approve the administration's May Revision proposal and augment the Corps budget by \$1.6 million General Fund to reopen the Ukiah residential center proposed for elimination in the Governor's budget.

## 3540 California Department of Forest and Fire Protection

### 1. Timber Harvest Plan Fees

**Previous Subcommittee Direction.** At the April 1 meeting of the Subcommittee, staff was directed to develop two sets of trailer bill language. One would implement the Governor's budget proposal to impose timber harvest plan (THP) fees to support the state's timber harvest review program and the second was to implement a retail timber tax as proposed in SB 557 (Kuehl). The Governor's proposal would raise \$10 million in THP fees to support CDF's THP review program.

**Governor's May Revision Proposal.** The Governor's May Revision indicates that it will be proposing trailer bill language to reform and streamline the timber harvest plan review process. Staff has not received this language.

**LAO Recommendation.** The Analyst recommends the enactment of legislation to establish THP fees to cover THP-related activities at all of the state agencies involved in reviewing and enforcing THPs. The Analyst cites a direct link between THP review and enforcement and the timber owners who directly benefit from the state regulatory activities. Adoption of the LAO recommendation would require THP fees to be raised to cover about \$19 million (\$10 million as proposed by the Governor and an additional \$9 million in additional General Fund THP review expenditures).

**Staff Recommendation.** Staff recommends adopting trailer bill language that does the following:

- (1) Adopts trailer bill language to adopt the LAO proposal, which increases THP fees to cover THP-related activities at all the state agencies involved in THP review. This will increase fees an additional \$10 million. The first \$9 million would backfill activities currently funded by the General Fund and provide an additional \$1 million to augment THP review at SWRCB and DFG.
- (2) Adopts trailer bill language to implement the Retail timber tax.

### 2. Shortfall in Fire Suppression Budget

**Previous Subcommittee Discussion.** At the April 1 meeting of the Subcommittee, the Subcommittee requested that the administration submit the trailer bill language it plans to sponsor to clean up current law related to fire fees. Staff has not received any language and understands the administration is not currently pursuing clean-up legislation.

**Projected Shortfall in Fire Suppression Budget.** Since the Subcommittee's meeting CDF has indicated that it projects a \$40 million shortfall in CDF's fire suppression budget over the current and budget years. This shortfall is projected as a result of a miscalculation in how the fire fee was statutorily assessed.

**Questions the Subcommittee may wish to ask.**

- How does the department plan to address the shortfall in the fire suppression budget?
- Does the administration plan to sponsor legislation to re-work the SRA fee law?

### 3. Fuel Reduction Proposal—April Finance Letter

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee, the Subcommittee took action to eliminate all funding for the department's development of a programmatic timber environmental impact report (PTEIR). Since that date, the Subcommittee has been notified that fuel reduction efforts in the Sierra-Nevada would be severely hindered if the department was not allowed to pursue the development of a PTEIR. Nevertheless, the Subcommittee is concerned about a state funded PTEIR that would authorize commercial logging without the regular environmental reviews required by law.

The Subcommittee also took action to direct CDF to utilize the California Conservation Corps (Corps) for 50 percent of the grant funds provided for fuel reduction. The department has indicated to staff that this proposal would be difficult to implement since CDF plans to distribute these funds primarily to local governments and private landowners. In response to CDF's concerns staff and the Analyst developed a smaller proposal that would utilize a small portion of CDF's fire suppression funds to help augment work opportunities for the Corps and train additional fire crews for the state. (See recommendation under the Corps).

**Governor's Fuel Reduction Proposal.** The CDF is requesting \$39 million Proposition 40 over five years (\$7.5 million in 2004-05) for fuel reduction activities aimed at reducing the risk of wildland fires in the Sierra Nevada region. The CDF proposes that the majority of the funding (about 86 percent) will be used for contracts under the California Forest Improvement Program (CFIP) and the Prefire Management Program (PMP) for mechanical treatments for fuel reduction. In addition, five percent of the program costs will be for prescribed burning.

**Staff Recommendation.** The subcommittee may wish to adopt the following language as trailer bill language and include the appropriation (\$7.5 million Proposition 40) for this proposal in the trailer bill.

*1. PTEIRs funded under this item shall be limited to projects for hazardous fuel reduction. Hazardous fuel reduction means the application of practices to wildlands of which the primary impact to the vegetation is the reduction of surface and ladder fuels. These practices include but are not limited to prescribed fire, machine or hand piling for burning, pruning and thinning. Tree removal shall be by the method known as "thinning from below," and shall be limited to trees that are 16 inches or less dbh. Treatments that reduce crown densities on timberlands shall be included only for the purpose of affecting fire behavior, and where it is reasonably demonstrated that the likelihood of crown fire is reduced. A registered professional forester with the department or on behalf of a private landowner shall (1) certify that the fuel reduction objectives were achieved for removal of surface fuels, brush, and ladder fuels and were accomplished by means that are consistent with this section and (2) certify that for each PTEIR or sub-area within a PTEIR that eighty percent or more of the treated landscape will have a post-treatment fuel load that will result in a flamelength of 4 feet or less and a minimum of 8 feet separation from the ground to the crown of live trees.*

This action conforms to the action to provide \$625,000 from CDF's funds to fund the Corps/CDF fuels management partnership (see recommendation in the California Conservation Corps budget).

## 5. April Finance Letter—Bond Funds

**Summary.** The following is a summary of the remainder of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the CDF.

### Department of Forestry and Fire Protection

#### April Finance Letter - Selected Bond Fund Proposals, 2004-05

(Dollars in Thousands)

Description	Prop 12	Prop 40	Prop 50	Total	Positions
<b>Urban Forestry.</b> Proposes funding for the urban forestry grant program to increase tree planting and follow-up care in urban areas and encourage improved tree management practices.	\$1,175	-	-	\$1,175	0.0
<b>CALFED Watershed Program.</b> Proposes funding to support the CALFED Watershed Program, which includes providing data on vegetation types and monitoring their change over time to improve the design of fuel reduction projects that protect CALFED watersheds.	-	-	240	\$240	0.0
<b>Total</b>	<b>\$1,175</b>	<b>\$0</b>	<b>\$240</b>	<b>\$1,415</b>	<b>0.0</b>

**Staff Recommendation.** Staff recommends approving the selected bond fund amendments from the April finance letter listed above.

## 6. Backfill of FRIF Funded Activities

**Previous Subcommittee Discussion.** At the April 1 meeting of this Subcommittee, the Subcommittee discussed the Governor's January 10 proposal to eliminate all program activities that were traditionally funded by the Forest Resource Improvement Fund (FRIF). The FRIF fund is supported from revenue derived from the sale of forest products from the state forest system. However, due to ongoing litigation, timber harvesting on the Jackson State Demonstration Forest has been severely curtailed. This has resulted in relatively limited amount of FRIF revenues projected in the budget year.

**April Finance Letter.** The administration's April finance letter proposed to backfill the reductions in FRIF funded activities at a reduced level in the budget year. The figure below summarizes the Governor's proposal to backfill FRIF funded activities in the budget year. The administration proposes funding these activities on a one-time basis using a reserve balance in the Renewable Resources Investment Fund (RRIF). The RRIF is revenues received from the federal government for geothermal leases. These funds are required to be expended on resources programs, which includes forest resource programs. The administration proposes to fund FRIF

activities with \$3.5 million from RRIF and \$850,000 from FRIF revenues. The funding level proposed for these programs results in a 40 percent reduction in program activities from the current year.

### Department of Forestry and Fire Protection

#### FRIF Funded Activities

(Dollars in Thousands)

Description	2002-03	2003-04	Proposed for 2004-05	
			Amount	Percent Change
<b>Demonstration State Forests.</b> The system of demonstration forests was established to investigate and demonstrate improved forest management practices. The CDF manages 71,300 acres of forested lands in 8 demonstration forests.	\$2,300	\$2,800	\$2,300	-18%
<b>State Forest Research.</b> Provides research on all aspects of sustainable forestry.	200	200	200	0%
<b>State Forest Stewardship.</b> Provides funding to address backlog of investments in road maintenance, timber stand improvement, timber inventory, and land surveys on the demonstration forests.	1,000	600	200	-67%
<b>Nurseries.</b> Provides a diverse inventory of tree seedlings and seed from forest lands throughout the state.	1,100	500	900	80%
<b>California Forest Improvement Program.</b> Provides technical assistance and enters into cost share contracts with non-industrial forest landowners for forest improvement work.	0	900	100	-89%
<b>Forest Pest Management.</b> Provides cooperative pest suppression, including pest surveys and technical assistance to land owners.	300	800	400	-50%
<b>Urban Forestry.</b> Provides information to promote improvement management of trees in urban settings.	0	100	0	-100%
<b>Watershed Assessment.</b> Supports the Fire and Resource Assessment Program that provides watershed assessment data for the preparation of timber harvest plans and other fire protection planning needs.	1,600	1,000	300	-70%
<b>Total</b>	<b>\$6,500</b>	<b>\$6,900</b>	<b>\$4,400</b>	<b>-36%</b>

**Staff Recommendation.** Staff recommends the Subcommittee *approve the April finance letter to backfill, on a one-time basis, FRIF activities utilizing the Renewable Resources Investment Fund.*

## 7. April Finance Letter—Capital Outlay

**Summary.** The following is a summary of the capital outlay budget amendments requested by the administration in the 2004-05 April finance letter for CDF. The administration also proposed

amendments to the April finance letter. These amendments are also reflected in the following table. The Subcommittee took action on the proposal to shift General Fund expenditures to lease revenue bonds at the April 1 meeting of the Subcommittee.

**Department of Forestry and Fire Protection**

April Finance Letter (Including Amendments) - Capital Outlay, 2004-05

(Dollars in Thousands)

Description	General Fund	Lease Revenue Bonds	Reimbursements	Budget Total	Reappropriations
<b>Stevens Creek Forest Fire Station.</b> Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	-175	\$175	-	\$0	-
<b>Pacheco Forest Fire Station.</b> Replace facility. Proposal to fund up-front payoff of 50 year lease of project site.	-175	175	-	0	-
<b>Warner Springs Forest Fire Station.</b> Replace facility. Proposal to fund up-front payoff of long-term lease.	-175	175	-	0	-
<b>Nipomo Forest Fire Station.</b> Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	-175	175	-	0	-
<b>Dew Drop Forest Fire Station.</b> Replace facility. Project delayed due to real estate issues.	-50	50	-	0	1,988
<b>Ukiah Forest Fire Station.</b> Replace facility. Proposal to fund working drawings and construction.	-	551	-	551	2,896
<b>Hemet-Ryan Air Attack Base.</b> Relocate facility. Proposal to fund land acquisition and construction.	-	834	-	834	-
<b>South Operations Area Headquarters.</b> Relocate facility. Proposal to fund land acquisition, working drawings, and construction costs. This is a joint project with the U.S. Forest Service and reimbursements are expected from the federal government to fund this project.	-	3,062	1,709	4,771	-
<b>Bautista Conservation Camp.</b> Replace modular buildings. Proposal to fund preliminary plans, working drawings, and construction costs of project.	-	779	-	779	186
<b>Cuyamaca Forest Fire Station.</b> Relocate facility. Department proposes \$3.3 million in January 10 budget for preliminary plans, working drawings, and construction of facility.	-	208	-	208	-
<b>Fenner Canyon Conservation Camp.</b> Proposes to reappropriate construction funding to construct a vehicle apparatus building at the camp.	-	-	-	-	2,452
<b>Batterson Forest Fire Station.</b> Proposes to reappropriate funding for working drawings and construction to remodel facility.	-	-	-	-	97
<b>Baseline Conservation Camp.</b> Proposes to reappropriate funding for working drawings and construction to remodel facility.	-	-	-	-	70
<b>Elk Camp Forest Fire Station.</b> Proposes to reappropriate funding for construction and relocation of facility.	-	-	-	-	1,977
<b>Usona Forest Fire Station.</b> Proposes to reappropriate funding for construction to replace facility.	-	-	-	-	1,688
<b>Altaville Forest Fire Station.</b> Proposes to reappropriate funding for working drawings and construction to replace facility. Delayed due to groundwater contamination.	-	-	-	-	167
<b>Total</b>	<b>-\$750</b>	<b>\$6,184</b>	<b>\$1,709</b>	<b>\$7,143</b>	<b>\$11,521</b>

**Staff Recommendation.** Staff recommends the Subcommittee *adopt the capital outlay April finance letter (including amendments).*

## 8. May Revision

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CDF.

### Department of Forestry and Fire Protection

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Other Funds	Total	Personnel Years
<b>Eliminate Funding for King Air.</b> Proposes to eliminate funding for the department's King Air aircraft.	-\$400	-	-\$400	0.0
<b>State Fire Marshall Inspections.</b> Proposes trailer bill language to allow the State Fire Marshall to charge for the inspections it performs on state owned and occupied buildings. Approximately \$3.4 million General Fund to support this activity was proposed for reduction in the January 10 budget.	0	-	0	0.0
<b>Capital Outlay.</b> Proposes additional funding to complete construction of the Sonora Forest Fire Station project. Increased building material costs contributed to this upward revision in construction costs.	-	626	626	0.0
<b>Total</b>	<b>-\$400</b>	<b>\$626</b>	<b>\$226</b>	<b>0.0</b>

**Previous Subcommittee Direction.** At the April 1 meeting of the Subcommittee, the Subcommittee discussed adopting the LAO option to sell the King Air airplane. The May Revision includes a proposal to eliminate funding for this airplane.

**Staff Recommendation.** No issues have been raised with the administration's May Revision proposal. *Staff recommends approving the May Revision proposal for CDF.*



## 3600 Department of Fish and Game

### 1. April Finance Letter

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for Department of Fish and Game (DFG). The following listing excludes bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

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#### Department of Fish and Game

##### April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
<b>Joint Communication Services.</b> Proposes to transfer 7 permanent positions on a two-year limited term basis from DFG to the Department of Parks and Recreation (DPR) and \$417,000 to DPR to provide statewide dispatch services for DFG as part of a cooperative joint venture to allow DFG to gain 24-hour communications to help ensure warden safety and timely responses to oil spills.	0	0	-7.0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>-7.0</b>

**Staff Recommendation.** No issues have been raised with the administration's April finance letter for DFG. **Staff recommends approving the finance letter.**

### 2. May Revision

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for DFG.

**Department of Fish and Game****May Revision, 2004-05***(Dollars in Thousands)*

<b>Description</b>	<b>General Fund</b>	<b>Special Funds</b>	<b>Prop 12</b>	<b>Total</b>	<b>Positions</b>
<b><i>Office of Oil Spill and Prevention.</i></b>	-\$811	\$811	-	0	0.0
Proposes to shift support for administrative support for the office from the General Fund to the Oil Spill Prevention and Administration Fund.					
<b><i>Land Enhancement and Preservation.</i></b>	-	-	1,072	1,072	2.0
Proposes funding to develop, enhance, and preserve wildlife areas, ecological reserves, and donated lands. Also proposes to support the California Waterfowl Habitat Program, which obtains wetlands enhancement easements from landowners.					
<b>Total</b>	<b>-\$811</b>	<b>\$811</b>	<b>\$1,072</b>	<b>\$1,072</b>	<b>2.0</b>

***Staff Recommendation.*** No issues have been raised with the administration's May Revision for DFG. ***Staff recommends approving the May Revision for DFG.***

### 3. OSPR Grants from the Environmental Enhancement Fund (EEF)

***Background.*** The Governor's Budget includes a \$307,000 appropriation from the Environmental Enhancement Fund (EEF) for various environmental projects carried out by the Office of Spill Prevention and Response (OSPR). Under existing law, the EEF receives revenues from oil spill penalty fine collected by OSPR that would otherwise be deposited into the General Fund. However, the department has not been able to identify how it plans to spend either the \$1 million appropriation available in the current fiscal year or the \$307,000 proposed in the budget. The OSPR staff indicates that EEF moneys have been previously used to purchase and restore wetland areas. The Governor's Budget shows an unappropriated balance in the EEF of approximately \$600,000 that would be available for expenditure for other purposes or transfer to the General Fund.

***Staff Recommendation.*** The Subcommittee may wish to utilize a portion of the EEF funds to:

- (1) Fund the development of regulations by OSPR to address and prevent accidents in California harbors involving tanker ships carrying hazardous material such as pesticides, fertilizer, acids, explosives or poisonous gases. To accomplish this the Subcommittee should adopt the following budget bill language:

3600-001-0322—For support of Department of Fish and  
Game, for payment to Item 3600-001-0001, payable  
from the Environmental Enhancement Fund..... \$307,000  
Provisions:

1. Notwithstanding Section 8670.70 of the Government Code, of the funds appropriated in this item, up to \$125,000 shall be available to the Administrator for Oil Spill Response to adopt and implement regulations authorized by subdivision (b) of Section 8670.17.2 of the Government Code.

- (2) Furthermore, due to the General Fund shortfall, the Subcommittee may wish to transfer the projected fund balance of the EEM fund to the General Fund. This would provide \$600,000 in General Fund revenues in the budget year.

#### 4. Marine Life Protection Act

**Background.** The DFG is required under the Marine Life Protection Act (MLPA) to develop a plan for establishing networks of marine protected areas in California waters to protect habitats and preserve ecosystem integrity, among other things. The purpose of the MLPA is to improve the array of Marine Protected Areas existing in California waters through the adoption of a Marine Life Protection Program and a comprehensive master plan.

**Recent Budget Actions.** Approximately \$800,000 in Environmental License Plate Fund revenues was provided to support this program in the current year. However, due to the vacancy reduction, hiring freeze, and other administrative actions in the current year the department was not able to staff this program. Subsequently, the ELPF funds allocated to this program were reverted and redistributed to fund other priorities and address the projected shortfall of revenues in the ELPF. This resulted in a suspension of the program until sufficient funding and staff resources were available to fund the program.

**Staff Comments.** Staff understands that private matching funds have been pledged to MLPA implementation and federal funds are also available for studies related to developing a plan under MLPA. In addition, the Governor's May Revision indicates that the state will be receiving approximately \$69 million in additional revenues from tidelands oil due to high oil prices. These funds are statutorily dedicated to resources programs, but the administration proposes to transfer these funds to the General Fund to help with the General Fund solution.

**Staff Recommendation.** In order to maximize funding from private and federal sources the subcommittee may wish to allocate \$500,000 to support 5 new positions from the additional tidelands oil revenues received by the state to implement the MLPA in the budget year. The 5 new positions should be explicitly exempted from the hiring freeze given the importance of getting this effort back on track and to maximize matching funds. The following budget bill language should be adopted to implement this proposal.

***Department of Fish and Game.***

*3600-001-0647 -- For support of the Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Marine Life and Marine Reserve Management Account . \$500,000*

*Provisions: 1. The funds appropriated in this item shall be available to match private funds*

*for expenditure for activities in support of protection and management of marine resources including: (a) facilitated regional workshops to identify potential sites for marine reserves, parks, and other candidate protected areas, (b) ecological and socioeconomic studies and data compilation pursuant to the Marine Life Protection Act, and (c) research, monitoring, and planning efforts necessary to meet the goals of the Marine Life Protection Program.*

## 4. Landing Fees

**Summary.** The department currently assesses landing fees on fish processors, wholesalers, and any other entities that receive fish from commercial fisherman. These fees were last set in 1986. The total revenue received in 2003 from these fees was about \$950,000. This is far less than the department's budget for commercial fisheries management, which is in the range of \$8.3 million. The DFG's marine fisheries management programs benefit the commercial fishing industry by providing some assurances that the resources will be available in the future. Therefore, given the benefits accrued directly to the fishing industry it would be appropriate for industry fees to pay for a larger portion of the department's commercial fisheries management program. Both Oregon and Washington assess fees on commercial fish landings at higher rates than California.

**Staff Recommendation.** The subcommittee may wish to adopt trailer bill language to raise the landing fees currently assessed on the commercial fishing industry. The trailer bill in **Appendix A** does the following:

- Ties the total amount of landing fees assessed in any year to the revenue levels set forth in the Budget Act for the DFG's activities related to commercial fishing. The fees should be limited to funding a program to manage and regulate the commercial fishing industry.
- Allows DFG to determine fees on commercial fee landings based on the value of the fish landed, which is similar to practices in Oregon and Washington.
- Creates a contingency reserve for the deposit of revenues in excess of department's budgetary needs that can be utilized to fund DFG's programs when revenues are low. This would help mitigate the need to raise fees when fish landings are low.

## 3640 Wildlife Conservation Board

### 1. Tidelands Oil Revenues

**Background.** The Governor's budget includes language in the Wildlife Conservation Board's (WCB's) budget to suspend statutory law that requires specific amounts of tidelands oil revenues collected by the State Lands Commission to be allocated to a series of natural resource and environmental programs. These programs (or "buckets") are specified in Section 6217 of the Public Resources Code (PRC) and were established by SB 217 (Thompson, 1997). Because of the state's fiscal situation, in recent years the Legislature has agreed to suspend Section 6217 and transfer all such revenues to the General Fund.

In January, the Governor's Budget estimated that \$61.3 million in tidelands oil revenues would be collected and transferred to the General Fund in the current year and \$120 million in the budget year.

**Revenues Have Increased Significantly.** Because of the steady rise in world oil prices over the past 12 months, there has been a dramatic increase in tidelands oil revenues that the state expects to receive during the current fiscal year and in fiscal 2004-05. The May Revision revised its estimates of tidelands oil revenues that will be transferred to the General Fund to \$84.5 million in the current year and \$156.4 million in the budget year. However, staff is advised that the May Revision assumptions are based on royalty rates tied to \$25 per barrel of oil, and not the \$33.20 per-barrel price for oil currently being sold by the State Lands Commission. Consequently, the state may actually receive an additional 32.8% or \$51.3 million more than what the May Revision assumes for the budget year. Staff would also note that oil on the world market is currently selling for more than \$40 per barrel, so the actual amount of tidelands oil revenue may be even higher.

**Staff Recommendation.** Because the amount of tidelands oil revenue collected by the state in fiscal 2004-05 could exceed the \$156.4 million assumed in the May Revision, staff recommends the following:

- (1) Adopt the following budget bill language that would cap the transfer of additional tidelands oil revenues to the General Fund and allow revenues collected in excess of \$156.4 million to be deposited into the Resources Trust Fund and available for appropriation for the various purposes authorized in PRC Sec. 6217.

3640-401--Notwithstanding any other provision of law, 1) the first \$500,000 shall be transferred into the Marine Life and Marine Reserve Management Account for activities of the Department of Fish and Game relating to the Marine Life Protection Act, and 2) the next \$155,914 shall be deposited into the General Fund for the 2004-05 fiscal year.

## 3810 Santa Monica Mountains Conservancy

### 1. SMMC Operations

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee approved an augmentation to Santa Monica Mountains Conservancy (SMMC) of \$22.1 million in bond funds. These funds were not proposed in the Governor's April finance letter with the bond funds for the rest of the conservancies pending resolution of outstanding issues related to the past management of bond funds. The Department of Finance (DOF) has raised these concerns with the Conservancy and staff understands their concerns have not been addressed to date.

**Staff Recommendation.** The Subcommittee may wish to take the following actions:

(1) Adopt the following budget bill language that would provide DOF and the Legislature with more oversight over SMMC's management of bond funds.

*(1) It is the intent of the Legislature that the Santa Monica Mountains Conservancy continue to work with local government agencies and to use the mutual exchange of services and cooperation between the conservancy and local joint powers authorities to extent allowed by state law to assist the conservancy in carrying out its responsibilities more effectively and efficiently while reducing the need for additional state employees.*

*(2) To ensure appropriate segregation of fiscal responsibilities while achieving the maximum efficiencies in administration and operations of the conservancy and joint powers authorities, of which it is a member, the conservancy shall do all of the following:*

*(a) The Conservancy shall provide services of the conservancy's executive director and of other conservancy staff to the Mountains Recreation and Conservation Authority only to the extent such sharing of services is permitted by law, as determined by the Office of the Attorney General.*

*(b) Develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure separation of functions with respect to fiscal operations of joint powers authorities. This shall include procedures whereby all financial transactions of the joint powers authority are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairs of the fiscal committees and appropriate subcommittees of each house of the Legislature by April 1, 2005.*

*3. The conservancy shall make grants to the Mountains Recreation and Conservation Authority from bond funds only in accordance with advice it has received from the Office of the Attorney General respecting the permissible use of bond funds available to the conservancy. The conservancy shall report annually to the chairs of the fiscal committees and appropriate subcommittees of the each house of the Legislature.*

*4. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the conservancy's authorized positions to improve fiscal and contracts management.*

- (1) Amend appropriations made at the April 29 so that the budget reflects the following appropriations for the budget year:

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**Santa Monica Mountains Conservancy****2004-05 Senate Proposed Appropriations***(Dollars in Thousands)*

Description	State Operations	Capital Outlay	Total
<i>Proposition 50</i>	\$211	\$9,500	\$9,711
<i>Proposition 40</i>	218	12,400	12,618
<i>Proposition 12.</i>	-	2,705	2,705
<b>Total</b>	<b>\$429</b>	<b>\$24,605</b>	<b>\$25,034</b>

## 3860 Department of Water Resources

### 1. Funding Flood Management

**Previous Subcommittee Action.** At the April 29 meeting of the Subcommittee, DWR's flood management budget was held open pending receipt of a white paper that addresses the potential liability of the state created by the Paterno decision. The Paterno decision requires the state to pay from \$500 million to \$1 billion in damages caused by a failed levee. The Subcommittee also discussed the Analysts recommendation to reduce the state's share of federally authorized flood control projects from 50 percent to 30 percent, including putting a greater emphasis on floodplain management strategies.

**Department Response.** The department has indicated that completion of the white paper is anticipated by the end of May. The white paper is a collaborative effort involving DWR's Executive Division, the Division of Flood Management, the Reclamation Board, the Office of the Chief Counsel, and the Division of Fiscal Services. The department indicates that completion of the white paper is a high priority for the Department.

**Staff Comments.** The Paterno case further elevates the importance of prioritizing the limited state resources currently dedicated to flood management. Since the General Fund has been the primary source of funding for flood management activities, funding levels have been unstable and do not coincide with infrastructure needs. A long-term strategy for funding flood management activities needs to be developed to address funding needs. The Analyst's recommendation is one option for freeing up state funds so that they can be prioritized to fund critical needs, including baseline investments in floodplain management. However, the state also needs to deal with the more immediate potential financial liability that the Paterno case presents, given the hundreds of miles of inferior levees under the state's jurisdiction.

**Staff Recommendation.** Staff recommends the Subcommittee *adopt the following supplemental report language:*

***Item 3860-001-0001—Department of Water Resources***

*No later than January 10, 2005, the Department of Water Resources (DWR) shall submit a report to the Legislature on the following:*

- *Findings and recommendations on prioritizing short and long term flood management expenditures for the entire state in light of the Paterno decision, including potential amendments to current law.*
- *Options for funding these recommendations given the reduced availability of General Fund resources to fund flood management activities.*

### 2. April Finance Letter—Excluding Bond Funds

**Previous Subcommittee Action.** At the April 29 meeting of the Subcommittee, portions of DWR's April finance letter amendments that excluded bond funds were approved. Those



amendments approved included the proposals related to state maintenance areas and the watermaster service program. The Subcommittee did not take action on the following issues:

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### Department of Water Resources

#### Portion of April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Reimbursements	Total
<b>Capital Outlay Reappropriations.</b> Proposes to reappropriate \$17.1 million General Fund and \$8 million in reimbursements for various capital outlay projects, including the Folsom Dam Modifications (\$15.4 million GF, \$7.4 million Reimb.), Sacramento Riverbank Protection Project (\$900,000 GF), Tehama Section 205 Flood Control (\$750,000 GF, \$682,000 Reimb.), Lower Sacramento Area Levee Reconstruction (\$50,000 GF), and Merced County Streams (\$30,000 GF).	\$0	-	\$0	\$0
<b>Dam Safety Program.</b> Proposes to increase fee authority to backfill recent General Fund reductions to the dam safety program.	-	431		431
<b>Salton Sea Restoration Studies.</b> Proposes to increase reimbursement authority to fund a habitat restoration study and other planning activities related to the restoration and protection of the Salton Sea. Funds are available from a Proposition 50 appropriation to the Wildlife Conservation Board.	-	-	7,200	7,200

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**Staff Recommendation.** No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the components of the April finance letter listed above.*

### 3. Bond Fund Program Support

**Previous Subcommittee Action.** At the April 29 meeting of the Subcommittee, DWR was directed to report to the Subcommittee on proposed staffing levels for each bond funded program, along with information on the bond-funded positions eliminated as part of Control Section 4.10 reductions. The Subcommittee also discussed the Analyst's finding that staffing reductions have substantially delayed the implementation of some new bond-funded programs.

**Department's Response.** The department provided the following information on the Proposition 50 bond-funded positions that were eliminated under Control Section 4.10:

- CALFED Levees Program – 5 positions
- Environmental Water Account – 5 positions
- Integrated Regional Water Management – 5 positions
- Drinking Water Pilot Projects Program – 1 position

**Staff Comments.** The department has not staff with information that indicates that workload needs associated with the programs listed above have changed since last year when the budget requests were made for positions to implement the bond-funded programs. Furthermore, the

CALFED Levee Program is one of the CALFED program elements that have lagged behind due to lack of funding and federal authorization of the CALFED program. Given this it will be important to expedite allocation of Proposition 50 funds allocated to the levee program. The Integrated Regional Water Management program represents a radical departure from the way the state has traditionally funded water-related projects. This program is designed to award grants to projects that propose regional integrated solutions to solving water problems as opposed to traditional single-purpose projects. Since this program represents a new approach to funding water projects, staff is concerned that the department has adequate staff to make the effort successful. Finally, DWR has indicated that it has made very little headway in getting the drinking water pilot project program up and running. However, it is not clear that additional staff are needed for the Environmental Water Account, as this program is being reevaluated this summer and fall and staffing needs should be evaluated after the CALFED program makes a decision on the future of the program.

**Staff Recommendation.** Staff recommends that the Subcommittee provide the department with 11 additional positions and funding from Proposition 50 for the budget year to implement the CALFED Levees program, the Integrated Regional Water Management program, and the Drinking Water Pilot Project program. This would restore the staffing levels of these programs to their original levels.

#### 4. April Finance Letter—Bond Funds

**Summary.** A summary of the resource bond-related budget amendments that were requested by the administration in the 2004-05 April finance letter for DWR is included in **Appendix B**. The amendments include proposals to expend approximately \$263 million from all bond sources. The administration also requests reappropriation of about \$220 million bond funds that were appropriated in prior years. These funds were not expended for a variety of reasons, including delays due to the need to develop criteria to implement new programs and delays caused by the hiring freeze. Finally, the administration also requests an extension of the liquidation period for approximately \$124 million in bond funds to assure funds are available to complete various projects and contracts.

**Environmental Water Account.** The department has indicated that the CALFED program is currently evaluating the future of the Environmental Water Account (EWA) and whether the program should continue in its current form. The CALFED program is planning on making a final decision on this program by September 30, 2004. Central to the reevaluation of the program is how to fund a long-term EWA. The department has indicated that \$72 million in Proposition 50 bond funds proposed for reappropriation in the budget year have been set aside as a possible funding source for the long-term EWA. However, concerns have been raised about funding the EWA solely from state bond funds if EWA water purchases provide water reliability benefits to the water contractors. Consistent with the beneficiary pays principle adopted by the Subcommittee at its April 29 hearing, staff think bond funds should be utilized to fund only the ecosystem benefits of EWA purchases. If EWA water purchases provide water reliability benefits the costs of those benefits should be paid for by those that benefit.

**Staff Recommendation.** Staff recommend the Subcommittee do the following:

- (1) Adopt the department's bond proposal as outlined in Appendix B (including reappropriations and extension of liquidation periods).
- (2) Adopt the following trailer bill language that prohibits state funds from being used to provide water to the EWA for the purposes of water supply reliability. This action is consistent with the Subcommittee's April 29 action to adopt the beneficiary-pays principle in funding the CALFED program.

*Section \_\_\_\_\_. (a) No state funds may be used to provide water or other assets to the environmental water account for the purposes of water supply reliability.*

*(b) The Department may develop and levy a fee on exports of water from the Sacramento-San Joaquin Delta to fund the acquisition of water or other assets to the environmental water account the purposes of water supply reliability.*

## 5. Integrated Regional Water Management Program

**Previous Subcommittee Discussion.** At the April 29 meeting of the Subcommittee the department provided draft guidelines for its Integrated Regional Water Management program. This program is designed to award grants to projects that propose regional integrated solutions to solving water problems. This differs from traditional single purpose projects, such as water use efficiency projects or water recycling projects. The Subcommittee was provided with the department's draft guidelines.

**Staff Comments.** Since the April 29 meeting of the Subcommittee, staff has reviewed the department's draft guidelines for the program and has found that the department has made significant progress in developing a program that reflects the intent of the bond and subsequent implementing language. However, in some instances water supply objectives are perceived to take precedence over water quality or other objectives. The intent of the bond and subsequent legislation is to fund plans and projects that address regional water-related conflicts. While water supply may be the lead objective in some regions, flood management, or water quality may be more pressing problems in other regions of the state.

**Department's Concerns.** At the April 29 meeting of the Subcommittee the department expressed concern regarding its ability to continue the grant process in a timely manner if subsequent legislative guidance was enacted.

**Staff Recommendation.** Staff recommends adopting the following clarifying trailer bill language to implement the Integrated Regional Water Management program. Staff does not think there are any changes in this law that should significantly impact the department's grant schedule for the program.

*Add a new water code section as follows:*

*79562.3. It is the intent of the Legislature that for the purposes of implementing section 79560 the department shall provide a funding cycle for planning grants to develop or adapt integrated regional water management plans to meet the requirements of this chapter. The department may expend up to \$10 million for planning grants pursuant to this section.*

*79562.4 It is the intent of the Legislature that for the purposes of implementing section 79560 the department and the board shall do all of the following:*

(a) Give preference for both planning grants and project grants based on the extent to which the applicant's plan or proposal for a plan or project demonstrates an integrated solution to water needs or conflicts. Proposals should be evaluated on the extent to which the plan, project or proposal for a plan indicates an effective mix of water management strategies that achieve either added benefits or reduced costs compared to single purpose or single project approaches.

(b) Encourage projects that have as their primary benefit or objective any one or more of the elements identified in Section 79561 so long as the project also provides either water quality benefits or improvement in water supply reliability. Both construction projects and non-construction projects that include the one or more of the mandatory elements in Section 79561 shall be eligible for funding.

(c) In evaluating grant proposals, consider the extent to which proposed plans or projects endeavor to address statewide priorities including elements of the CALFED Record of Decision, TMDLs, SWRCB basin plan objectives, recommendations of the floodplain management task force, desalination task, recycling task force or other pertinent statewide needs.

## 6. May Revision

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for DWR.

### Department of Water Resources

#### May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Prop 13	Total
<b>CALFED Drinking Water Quality.</b> Proposes to fund final environmental documentation, design, and implementation of a CALFED ROD directed action to reduce and relocate agriculture drainage to improve drinking water quality in the vicinity of Rock Slough and Old River. Also proposes to isolate agriculture drainage from drinking water intakes near Rock Slough.	-	\$10,138	\$10,138
<b>Dam Safety Program.</b> Proposes to eliminate General Fund support for the dam safety program. This program is now fully funded by dam safety fees.	-135	-	-135
<b>Total</b>	<b>-\$135</b>	<b>\$10,138</b>	<b>\$10,003</b>

**Staff Recommendation.** No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the May Revision for DWR*.

## 7. Various Requests

**Summary.** Staff has been notified that action on the following items is requested.

1. City of Malibu—Reappropriation of Proposition 13 funds for the Las Flores Creek Restoration grant awarded as an Urban Streams grant in the 2001-02 budget.

***Staff Recommendation.*** The Subcommittee may wish to adopt language to facilitate the action listed above.

## 3870 California Bay-Delta Authority

### 1. Budget Change Proposal—Informational Display

**Summary.** In the April 29 agenda for this Subcommittee staff listed that no budget change proposals had been submitted for the California Bay-Delta Authority (BDA). It was brought to staff's attention that this was incorrect. The following is a summary of the budget change proposal submitted with the Governor's January 10 budget.

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#### California Bay-Delta Authority

##### Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Personnel Years
<b>Communication Reductions.</b> Proposes to reduce contracts that support BDA's annual report, tribal involvement, stakeholder coordination, and environmental justice.	-\$720	-
<b>Program Implementation Reductions.</b> Proposes to reduce contracts that support regional coordination, development of the finance plan, and program integration.	-830	-
<b>Administration Reductions.</b> Proposes to reduce contracts that support legal services and the administrative efficiencies pilot program.	-850	-
<b>Total</b>	<b>-\$2,400</b>	<b>0.0</b>

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### 2. CALFED Science Program Language

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee, staff was directed to develop supplemental report language that requires BDA to provide information on how the CALFED Science program is addressing the issue of how much water is needed to restore fisheries.

**Staff Recommendation.** Staff recommends the Subcommittee adopt the following supplemental report language on this issue:

**3870-001-0001—California Bay-Delta Authority**

- (a) The science program shall, by January 10, 2005, report to the Legislature with a plan to develop and implement a research agenda designed to answer the following questions:
- (1) How much additional water, above that provided under the current regulatory regimen, is necessary for the full recovery of all delta dependent fish species designated on either the state or federal endangered species lists as either endangered or threatened?
  - (2) What time of year is the additional water identified in (1) needed?
  - (3) Are there other characteristics of the additional water identified in (1), such as temperature, that are critical to recovery of these species, and if so what are those characteristics?

*(b) As part of the research agenda described in (a), the science program may address any other questions related to the water needs of threatened or endangered fish that the science program deems appropriate.*

### 3. May Revision

**Summary.** The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for BDA.

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#### California Bay-Delta Authority

May Revision, 2004-05

*(Dollars in Thousands)*

Description	General Fund	Personnel Years
<b>General Fund Reductions.</b> Proposes to reduce administrative support for the CALFED program.	-\$255	-1.9
<b>Total</b>	<b>-\$255</b>	<b>-1.9</b>

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**Staff Recommendation.** No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the May Revision proposal for BDA.*

## 3940 State Water Resources Control Board

### 1. Timber Harvest Plan Review in Sierra Nevada

**Previous Subcommittee Direction.** At the April 15 meeting of the Subcommittee, the Subcommittee requested that the Governor's proposal to shift positions from the north coast to the Sierra-Nevada to support timber harvest plan review activities. The Governor's proposed to shift 5.3 positions and \$470,000 General Fund from the north coast to the Sierra-Nevada to address increased THP review workload in this area.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the Governor's proposal to transfer positions from the north coast to the Sierra-Nevada and instead augment the board's timber harvest review program by 5.3 positions and \$470,000. This augmentation is supported by a previous action in the California Department of Forestry and Fire Protection budget to augment THP fees to cover the THP review costs of all of the departments involved in THP review.

### 2. April Finance Letter—Bond Funds

**Previous Subcommittee Direction.** At the April 29 meeting of the Subcommittee, the Subcommittee requested that the department provide additional information on its efforts to streamline its process of awarding grants. Concerns had been raised regarding the length of time it takes the board to award grants and contracts.

**Department's Response.** The board has indicated that it has taken the following steps to streamline and shorten the time it takes it to review and award grants under its various grant programs:

- Formation of a special contracts task force charged by the Executive Director to significantly reduce processing time;
- Transfer of staff from other program areas to grants to help with workload;
- Major reorganization of staff and duties, both at the State and Regional Boards, to provide a focus on contract and grant activities;
- Development of time-saving templates and checklists;
- Elimination of internally redundant reviews;
- Development of new tracking and problem identification systems;
- Revamping of our process to require "contract ready" products much sooner; and
- Changing the award mechanism from contracts to more streamlined grants.

Specifically, the board has indicated that its average grant processing time has been shortened from a peak of 32 months during its implementation of Proposition 13 Phase I grants in 2001 to 3 to 4 months for consolidated grants in the current year.

**Summary.** The following is a summary of the bond-related budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB.



**State Water Resources Control Board****April Finance Letter - Bond Proposal, 2004-05***(Dollars in Thousands)*

<b>Description</b>	<b>Prop 13</b>	<b>Prop 50</b>	<b>Positions</b>
<b>State Operations.</b> Proposes funding and positions to administer grant and local assistance programs. Of the positions requested, 9 are extensions of positions established in the current year on a one-time basis and 6.2 are new positions. The 1.5 positions supporting the Ag Water Quality Program are proposed on a one-year limited term basis.	-	\$1,399	15.2
<b>Groundwater Monitoring.</b> Proposes local assistance funding for the Groundwater Monitoring Program, which is mandated by Chapter 522, Statutes of 2001 (AB 599, Liu). Funding is proposed from Chapter 8 of the bond.	-	10,000	0.0
<b>Agricultural Water Quality Program.</b> Proposes reappropriation of local assistance funds appropriated in the current year for the Agricultural Water Quality Program. These funds were not distributed in the current year due to requirements to adopt project guidelines, ensure public participation, and provide outreach to disadvantaged communities that extended the timeframe for awarding grants. Funding is proposed from Chapter 5 of the bond.	-	9,500	0.0
<b>State Operations.</b> Proposes funding and positions to accelerate implementation of watershed protection and non-point source pollution control grants. The new positions are proposed as three-year limited term positions. In addition, four existing Proposition 204 positions are proposed to be redirected to support the accelerated implementation of Proposition 13 grants.	\$574	-	6.0
<b>Water Recycling.</b> Proposes additional local assistance funds for the Water Recycling Program that provides construction grants and loans to local agencies to design and construct water recycling facilities.	21,689	-	0.0
<b>Watershed Protection.</b> Proposes local assistance funds for the Watershed Protection Program that provides grant funding to local agencies and nonprofit organizations for projects that assist in implementing watershed plans.	1,423	-	0.0
<b>Non-Point Source (NPS) Pollution.</b> Proposes local assistance funds for the NPS Pollution Control Program to provide grant funds to local agencies and nonprofit organizations for projects that control NPS pollution.	1,047	-	0.0
<b>Coastal NPS Pollution.</b> Proposes local assistance funds for the Coastal NPS Pollution Control Program to provide grant funds to local agencies, educational institutions, and nonprofit organizations to fund projects that protect water quality of coastal waters.	2,941	-	0.0
<b>Total</b>	<b>\$27,674</b>	<b>\$20,899</b>	<b>21.2</b>

**Water Recycling Grant Program.** Staff has been informed that the board is not considering funding some water recycling projects that have already started to construction. These projects were on the board's category 1A list, which put them first in line for Proposition 50 funding. However, due to delays in the grant process, some of these projects went to construction without a grant award from the board. In these specific cases, the local agencies could not wait for Proposition 50 awards from the board due to the need to start construction to satisfy

commitments made to other funding partners. Staff understands that this applies to a small number of projects.

***Staff Recommendation.***

- (1) Staff recommends the Subcommittee approve the bond-related budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB.
- (2) Furthermore, the Subcommittee may wish to adopt the following budget bill language that directs the board to fund eligible water recycling projects that began construction before grant awards were made by the board. This following language limits this practice to eligible grantees in the budget year only.

*Item 3940-101-6031*

*Provisions:*

*X. Grants made pursuant the Water Recycling Grant Program, funded in this Item, and Item 3940-101-6031 of the Budget Act of 2003 (Ch. 157, Stats. Of 2003), shall, upon award of a grant by the State Water Resources Control Board, be available for reimbursement of eligible costs incurred after January 1, 2004.*

### 3. Water Rights Diversion Information

***Previous Subcommittee Direction.*** At the April 15 meeting of the Subcommittee, the Subcommittee requested that the board provide the following:

- Information regarding whether the board would be able to adopt as guiding principles the 2002 Joint Guidelines adopted jointly by the Department of Fish and Game (DFG) and the National Oceanic and Atmospheric Administration (NOAA).
- Information on the board's water right penalty revenues, including information on where they are deposited, the level of revenues received annually, and an explanation of what activities the penalty revenues support.
- Information on the board's ability to provide a simple and easy to read matrix of water rights activity at the board. At a minimum the subcommittee is interested in a matrix that includes information on pending applications, status of each application, actions taken each year, and that the information be available on the board's website.

***Department's Response.*** The department provided the following information in response to the Subcommittee's request:

- The board adopted informally the 2002 Joint guidelines, which is the same action taken by DFG and NOAA, as guiding policy. The board's primary concern with formally adopting the Draft Guidelines as regulations is that it will limit the flexibility of the SWRCB, DFG, and NOAA to address each individual project that may not specifically fit the use of the Draft Guidelines.
- Up until December 31, 2003, water rights penalty revenues were deposited into the General Fund, and were not used to directly support the water rights program. An average of approximately \$8,000 was collected each year since 1998. As of January 1, 2004, all penalty revenues are deposited into the Water Rights Fund, however, no penalty revenue has been collected since January 1, 2004. When penalty revenues are collected they will be deposited into the Water Rights Fund, which is appropriated each year by the Legislature to support the water rights program.

- The board's Division of Water Rights has a monthly report with that shows the total number of pending applications and the number of applications received each month. The board also indicates that they are currently in the process of compiling historical information for the water rights actions taken each year and it will take some time to provide a simple and easy to read matrix that would be available on the board's website. However, the board does not object to this request.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt trailer bill language to require the board to provide basic information on water rights activity at the board, including pending applications, status of each application, and actions taken each year. Information should be available by water body and easily available on the board's website.

## 4. May Revision Reductions

**May Revision.** The following is a summary of the budget amendments required by the administration in the 2004-05 May Revision for SWRCB.

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### State Water Resources Control Board

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
<b>Septic Tank Standards.</b> Proposes reductions to the Septic Tank Standards program that are no longer necessary to complete the rulemaking process.	-\$202	-\$202	-1.0
<b>Total</b>	<b>-\$202</b>	<b>-\$202</b>	<b>-1.0</b>

**Staff Recommendation.** No issues have been raised with the administration's May Revision proposal for SWRCB. *Staff recommends the subcommittee approve the May Revision amendments for SWRCB.*

## 5. Agriculture Water Quality Grant Program

**Background.** In July of 2003, the Central Valley Regional Water Quality Control Board adopted conditional waivers for discharges from irrigated lands, requiring thousands of Central Valley producers to develop first-ever monitoring plans and implement pollution control practices. The Central Coast Regional Water Quality Control Board is currently evaluating a similar program. In an effort to support these new regulatory programs, the Legislature last year allocated \$9.5 from Proposition 50 for projects mitigating agricultural discharges; \$11.4 was similarly allocated from Proposition 40. The State Water Resources Control Board has pooled these funds, (adding \$6 million from a Federal 319h grants) to create an Agricultural Water Quality Grants Program (AWQGP) which will be considered for approval at the July 2004 SWRCB meeting.

This grant program can play a critical role in supporting the new agriculture waiver programs and warrants continued funding. Projects that enable growers to identify, evaluate, and demonstrate model practices, and provide an opportunity for educating others in their industry, are essential if these early regulatory efforts are to succeed.

Similarly, new water quality requirements are being imposed on dairies throughout the state. The funds proposed in the budget are to fund mostly projects related to irrigated agriculture. Therefore, no funds are available to dedicated to dairy water quality grants.

**Staff Recommendation.** Staff recommends the Subcommittee take the following actions:

- (1) Adopt budget bill language (that follows) to implement the Agriculture Water Quality Grant program. The same language was adopted in the current year as well.
- (2) Increase Proposition 50 funds for the Agriculture Water Quality Grant program by \$20 million (This is in addition to the \$9.5 million proposed by the Governor and recommended for adoption in a previous Subcommittee action.)
- (3) In addition, adopt trailer bill language (that follows) to implement a new Dairy Water Quality Improvement program.
- (4) Provide \$5 million Proposition 50 to fund the Dairy Water Quality Improvement program.
- (5) Supplemental report language that would provide recommendations for maximizing funds available to assist in addressing the environmental impacts of agriculture (language that follows).

All addition Proposition 50 funds should be allocated from Section 79540 (a) of the Proposition 50 bond.

Budget Bill Language:

3940-101-6031

*Provision X - "Notwithstanding any other provision of law, \$29,500,000 of the amount appropriated in this item shall be available for expenditure during the 2004-05 through 2005-06 fiscal years to provide grants for projects to reduce or eliminate the discharge of agricultural pollutants pursuant to subdivision (d) of Section 30935 and Section 30940 of the Public Resources Code. These funds shall be available for grants to reduce agricultural discharges to surface or groundwater. Grants shall be given to projects with the greatest potential to reduce pollutants and protect water quality and that use qualified impartial experts to document and verify results through water quality monitoring or other means.*

Budget bill and trailer bill language that accomplishes the following:

- (1) Allocates \$5 million for dairy water quality grants in the budget year subject to the following provisions:
  - SWRCB shall consult with CDFA and coordinate with CA Dairy Quality Assurance Program administered by CDFA.
  - SWRCB guidelines should give preference to parties in DQAP but give flexibility to SWRCB to waive preference where local conditions warrant.
  - Make the appropriation a two-year appropriation; any unspent funds would revert thereafter.
  - Funds must be expended to address dairy-related threat or impairment to water quality.

- Eligible projects include, but are not limited to: manure management projects that protect groundwater and surface water resources. (i.e. digesters and regional and on-farm composting.); water conservation and reuse programs; alternative forms for wastewater management that protect groundwater and surface waters, (i.e. on-site waste water management and field nutrient management control;) research on wastewater management; and sustainable agriculture projects, (i.e. tail-water discharge return projects, soil conservation.)

Supplemental Report Language:

**3940-001-0001—State Water Resources Control Board**

*On or before December 31, 2004, the Legislative Analyst shall prepare and submit to the appropriate policy and fiscal committees of the Legislature a report setting forth its recommendations for any legislation and budgetary actions that would identify and maximize state and federal funding opportunities to assist in addressing the adverse environmental impacts of agricultural activities and operations. In preparing the report, the Analyst shall consult with the appropriate entities within the California Environmental Protection Agency and the Department of Food and Agriculture. The report shall include recommendations on how the State of California may access federal funds available for dairy environmental enhancement purposes pursuant to the conservation programs of the Farm Security and Rural Investment Act of 2002, and any other federal funds.*

## 3900 Air Resources Board

### 1. Funding Clean Air Programs

**Background.** In past years, this subcommittee and the Legislature have taken the lead in adopting funding and trailer bill language to establish and ensure the ongoing funding for three cost-effective air quality incentive programs that have produced significant emissions reductions. These programs—the Carl Moyer Program, the Accelerated Vehicle Retirement (or vehicle scrappage) program, and the Lower-Emissions School Bus Program—are critical to help California comply with its state and federal air quality obligations, to protect public health, the environment, and the state’s economy. In recent years, all three of these programs have exhausted nearly all of their funding allocations.

Given the General Fund shortfall, alternative proposals to fund these programs have been being developed. One proposal is to levy a mitigation fees on gasoline and diesel fuels, including imports, for the purposes of providing a permanent and dedicated funding stream to these air quality programs. This fee would be imposed and collected at the wholesale terminal rack (fuel storage and distribution facility) where an established collection process is already administered by the state’s Board of Equalization. Another proposal suggested for funding these air quality programs is to increase the motor vehicle registration fee to provide a dedicated source of revenues for these programs.

In addition to this request, the committee has received several communications from members of the Senate who represent the Central Valley requesting that a new element to state air quality incentive programs be added to assist agriculture in complying with new air quality laws and regulations applicable to them.

**Staff Recommendation.** Staff recommends that the subcommittee adopt trailer bill language that imposes the so-called “rack fee” on motor vehicle fuels and the increase in the motor vehicle registration fee to fund clean air programs as described above.

## **Appendix A—Trailer Bill Language**

1. California Coastal Commission—Fee language
2. California Department of Food and Agriculture—Positions language
3. Secretary for Resources—River Parkways Program language
4. Secretary for Resources—Sierra Nevada Cascade Program language
5. Department of Fish and Game—Landing Fees language

# 3720 California Coastal Commission—Trailer Bill Language

## ***Language accomplishes the following:***

- Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

***Draft Date: 5/17/04***

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## **Public Resources Code**

### **Section 1:**

- (a) ***It is the intent of the Legislature that the California Coastal Commission revise its permit fee schedule to recover at least fifty percent of the costs incurred in processing and enforcing coastal development permits. Notwithstanding any other provision of law to the contrary, the Commission may collect fees from public agencies for processing a request for action by the Commission that is necessary for new development proposed by the public agency.***
- (b) ***The adoption of permit fee increases pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.***
- (c) ***It is the intent of the Legislature that the Governor's annual budget document display the Coastal Commission's permit fee revenues for past, current, and future budget years.***

### **Section 2.**

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, the following:

- (1) Application and appeal forms.
- (2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.
- (3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the



certification of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out this division.

(c) (1) The commission may require a reasonable filing fee, ***to be adjusted annually by the increase in the consumer price index***, and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited ***directly into the General Fund with the first \$500,000 transferred to the Coastal Access Account***, which is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account. Nothing in this paragraph authorizes an increase in fees or creates any new authority on the part of the commission.

(d) With respect to any appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from any person other than members of the commission or any public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

### **Section 3.**

***This act is an urgency statute and shall take effect immediately.***

# 8570 California Department of Food and Agriculture—Trailer Bill Language

## *Language accomplishes the following:*

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

**Draft Date: 5/17/04**

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## **Food and Agriculture Code**

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money that is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money that is credited to the fund pursuant to the law.

**221.1** Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

**221.2** All money deposited in the fund under the provisions enumerated below is hereby exempted from Sections 13320 to 13324, inclusive, of the Government Code:

- (a) Article 7 (commencing with Section 5821) and Article 7.5 (commencing with Section 5850) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.
- (b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.
- (c) Article 8.5 (commencing with Section 6047.1) of Chapter 9 of Part 1 of Division 4.
- (d) Article 4.5 (commencing with Section 6971) and Article 5 (commencing with Section 6981) of Chapter 2 of Part 3 of Division 4.
- (e) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.
- (f) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.
- (g) Sections 19225, 19227, 19312, and 19315.
- (h) Division 10 (commencing with Section 20001).
- (i) Division 11 (commencing with Section 23001).
- (j) Part 4 (commencing with Section 27501) of Division 12.
- (k) Division 16 (commencing with Section 40501).
- (l) Chapter 9 (commencing with Section 44971) of Division 17.
- (m) Chapter 1 (commencing with Section 52001) of Division 18.

- (n) Chapter 2 (commencing with Section 52251) of Division 18.
- (o) Chapter 3 (commencing with Section 52651) of Division 18.
- (p) Chapter 4 (commencing with Section 52851) of Division 18.
- (q) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.
- (r) Section 58582.
- (s) Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) of Part 3 of Division 21.
- (t) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.
- (u) Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (v) Chapter 14 (commencing with Section 13400) and Chapter 15 (commencing with Section 13700) of Division 5 of the Business and Professions Code.

***221.3 Notwithstanding Section 221, 221.1, and 221.2, (a) the Department of Food and Agriculture shall establish all permanent positions with the State Controller's Office, pursuant to standard state administrative practices.***

***(b) The department shall report to the Chairs of the fiscal committees of the Legislature and the Legislative Analyst's Office, not later than January 10, 2005, on the positions established pursuant to subdivision (a) that have been funded from the department's blanket authority. The report shall include a description of the positions by program, classification, and fund source, as well as a complete description of the workload for the positions.***

## **Government Code Section**

12439. (c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

- (1) The position is necessary for directly providing 24-hour care in an institution operated by the state.
- (2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.
- (3) The position is directly involved in services for public health, public safety, or homeland security.
- (4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- (5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- (6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.
- (7) ***The position is (i) funded entirely from monies appropriated pursuant to Section 221.1 of the Food and Agriculture Code, (ii) was established with the State Controller pursuant to Section 221.3 of the Food and Agriculture Code, and (iii) directly responds to unforeseen agricultural circumstances requiring the relative expertise that the position provides.***

- (d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).
- (e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.
- (f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.
- (g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.
- (h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.
- (i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.
- (j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.
- (k) This section shall become operative July 1, 2002.

## 0540 Secretary for Resources—River Parkways Program

### *Language accomplishes the following:*

- Adopt trailer bill language to develop a framework for the award of grants under the River Parkways program.
- Appropriate, in the trailer bill, the \$38.35 million from Propositions 40 and 50 for the River Parkways Program.
- Require a report by the Agency on the geographic distribution and types of projects, as well as other details.

***Draft Date: 5/18/04***

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### **CHAPTER 3.8. CALIFORNIA RIVER PARKWAYS ACT OF 2004**

5750. This chapter shall be known, and may be cited, as the California River Parkways Act of 2004.

5751. The Legislature finds and declares all of the following:

(a) River parkways directly improve the quality of life in California by providing important recreational, open-space, wildlife, flood management, water quality, and urban waterfront revitalization benefits to communities in the state.

(b) River parkways provide communities with safe places for recreation including family picnics; bicycling and hiking; areas for river access for swimming, canoeing, and fishing; and many other activities.

(c) River parkways help revitalize deteriorated urban neighborhoods and provide an anchor for economic development by providing important recreational and scenic amenities.

(d) River parkways provide accessible open space that helps remedy the severe shortage of park and open-space areas that plague many urban and suburban communities, small towns, and rural areas.

(e) River parkways provide flood protection benefits for communities by providing wider corridors along our waterways that help store, and provide safe corridors for the passage of storm and flood waters.

(f) River parkways protect and restore riparian and riverine habitat.

(g) River parkways improve or protect the water quality in our rivers and streams.

(h) River parkways provide the recreational and ecosystem components of integrated regional water management and watershed plans.

(i) California can improve the quality of life in this state by assisting public agencies and nonprofit organizations in establishing, developing and restoring river parkways.

5752. For purposes of this chapter, the following terms have the following meanings:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Parkways Program" means the California River Parkways Program established pursuant to subdivision (a) of Section 5753.

(d) "Secretary" means the Secretary of the Resources Agency.

5753. (a) The California River Parkways Program is hereby established in the office of the Secretary of the Resources Agency, to be administered by the secretary.

(b) The secretary shall make grants available to public agencies and nonprofit organizations for river parkway projects from moneys appropriated to the secretary. Those funds may also be used for costs directly related to the delivery of the river parkways program.

(c) Grants may be awarded for the acquisition of land for river parkways or for the restoration, protection, and development of river parkways in accordance the provisions of this chapter. Not more than 10% of funds appropriated to the secretary by this chapter may be used for Urban Stream Restoration projects pursuant to Section 7048 of the Water Code.

(d) All projects shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(e) All acquisitions shall be from willing sellers.

(f) To be eligible for a grant, a project shall, at a minimum, meet two of the following conditions:

(1) Improve public access or provide compatible recreational opportunities such as trails for strolling, hiking, bicycling, and equestrian uses along rivers and streams.

(2) Protect, improve, or restore riverine or riparian habitat.

(3) Maintaining or restoring the open-space character of lands along rivers and streams to be compatible with periodic flooding as part of a flood management plan or project.

(4) Improve or restore the water quality of a river or stream by reducing pollutants, sediments or other causes of water quality degradation.

(5) Convert existing urban waterfront land uses into uses consistent with river parkways, as identified in this chapter.

(6) Provide facilities to support or interpret river or stream restoration or other conservation activities.

(g) Preference shall be given to eligible projects that are consistent with adopted River Parkway Plans, watershed plans, integrated regional water management plans, or other comprehensive planning efforts designed to provide long term guidance and strategy for the protection of river and watershed resources, and the resolution of water related conflicts within a specific geographical and hydrological area.

5754. The secretary shall develop regulations, criteria, or procedural guidelines for the implementation of this chapter that shall be consistent with, but not limited to, Section 5753. These regulations, criteria, or procedural guidelines are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

5754.4 To extent funds are available, the secretary shall develop guidelines for the preparation and consideration of river parkway plans for the purpose of subdivision (i) of section 5753 and may award grants to assist in development of such plans. Watershed plans, integrated regional water management plans or other similar plans that integrate recreational, public access and habitat benefits with water quality or other water related objectives may be considered as river parkway plans.

5754.5. The secretary shall report annually to the legislature regarding the geographic distribution, types and benefits of projects funded pursuant to this chapter.

5755. All regulations, criteria, or procedural guides adopted by the secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC.2. Of the funds available for the purposes of 5096.650(c)(1) of the Public Resources Code, the sum of seven million eight hundred-fifty thousand dollars (\$7,850,000) is hereby appropriated from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund established by 5096.610 of the Public Resources Code.

Of the funds available for the purposes of Section 79541 of the Water Code, the sum of thirty million five hundred thousand dollars (\$30,500,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 established by Section 79510 of the Water Code.

## 540 Secretary for Resources—Sierra Nevada Cascade Program

### *Language accomplishes the following:*

- Adopt trailer bill language creating the Sierra Nevada-Cascades Program, to provide a framework for the award of grants under this program.
- Appropriate, in the trailer bill, the \$9.15 million from Proposition 50 for the Sierra Nevada-Cascades Program.

***Draft Date: 5/18/04***

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Add new chapter to PRC Division 5 as follows:

### Chapter 3.9 Sierra Nevada-Cascade Conservation Grant Program

5760. The Sierra Nevada-Cascade Conservation Grant Program is hereby established in the Resources Agency, to be administered by the Secretary.

5761. For purposes of this chapter, the following definitions shall apply:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Program" means the Sierra Nevada-Cascade Conservation Grant Program established pursuant to Section 5760.

(f) "Secretary" means the Secretary of the Resources Agency.

5762. In administering the program, the secretary, working in collaboration and cooperation with local governments and interested parties, shall seek to:

(a) Provide increased opportunities for tourism and recreation.

(b) Protect water quality from degradation.

(c) Reduce the risk of natural disasters, such as fire.

(d) Protect, conserve, and restore the region's physical, cultural, archeological, and historical resources.

(e) Assist the local economy, including providing increased economic opportunities.

(f) Identify the highest priority projects and initiatives for which funding is needed.

(g) Undertake efforts to enhance public use and enjoyment of lands owned by the public.

(h) Support efforts that advance environmental preservation and the economic well being of Sierra residents in a complimentary manner.

(i) Aid the preservation of working landscapes.



(j) Support local government efforts to develop and implement open space and habitat protection plans including natural community conservation plans.

5763. The secretary may carry out projects and activities to further the purposes identified in section 5762 including providing grants and loans to public agencies and nonprofit organizations for acquisition, restoration, development and such other activities and projects as are necessary to meet the goals of this chapter, provided that all such expenditures must be consistent with any restrictions related to the source of funds. In implementing this chapter, the secretary shall consult with the city or county where a grant is proposed or an interest in land is proposed to be acquired.

5763.5(a) For the purposes of implementing Water Code Section 79544 the secretary may provide grants to local public agencies, local water districts, or nonprofit organizations for acquisitions consistent with this chapter for any of the following purposes:

(1) Acquisition of agricultural, forest or grazing lands, or other working landscapes to prevent conversion to uses that could decrease water quality and degrade habitat values or to establish management practices that improve water quality and habitat. Conservation easements that maintain lands in private ownership and management shall be used when possible to accomplish these purposes.

(2) Acquisition of lands adjacent to rivers, streams, lakes, or wetlands that, if not protected, could lead to a decrease in water quality.

(3) Purchase of water rights that will protect water quality and in-stream flows for resource protection.

(4) Acquisition of lands on which current management practices contribute to water quality degradation for the purpose of halting or reversing the adverse affects on water quality.

(b) Preference shall be given to projects that accomplish one or more of the following goals:

(1) Contribute to the implementation of a locally developed open space, agricultural preservation or habitat protection plan.

(2) Assist in the implementation of a locally developed and approved watershed protection plan.

5764. The secretary shall require a prospective grantee for land or water resource acquisitions to include in the grant application a proposal for the long-term management of the resource proposed to be acquired. The grant applicant shall identify the entity that will hold title to the resource, including any state or federal agency to which title may be transferred after acquisition, and the entity that will be responsible for managing and protecting water quality values of the resource.

5764.5 All acquisitions pursuant to this chapter shall be from willing sellers.

5765. The secretary may appoint an advisory committee that includes a membership that is representative of the diverse interests of the Sierra Nevada region including, but not limited to, local government, conservation, business, agriculture, and tourism.

5766. All regulations, criteria, or procedural guides adopted by the Secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 2. Of the funds available for the purposes of Section 79544 of the Water Code, the sum of nine million one hundred fifty thousand dollars (\$9,150,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002,

established by Section 79510 of the Water Code, to the Secretary of the Resources Agency, for the purposes of awarding grants and program delivery pursuant to Section 79544 of the Water Code, in accordance with Chapter 3.9 of Division 5 of the Public Resources Code (commencing with Section 5760).

## 3600 Department of Fish and Game—Landing Fees

### *Language accomplishes the following:*

- Ties the total amount of landing fees assessed in any year to the revenue levels set forth in the Budget Act for the DFG's activities related to commercial fishing. The fees should be limited to funding a program to manage and regulate the commercial fishing industry.
- Allows DFG to determine fees on commercial fee landings based on the value of the fish landed, which is similar to practices in Oregon and Washington.
- Creates a contingency reserve for the deposit of revenues in excess of department's budgetary needs that can be utilized to fund DFG's programs when revenues are low. This would help mitigate the need to raise fees when fish landings are low.

***Draft Date: 5/18/04***

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *The Legislature finds and declares all of the following:*

- (a) The current system of collecting funds from the commercial fishing industry for the purpose of supporting department programs related to the conservation and management of and research related to commercial fishing do not reflect the value of the fish they are based on, and in most years do not cover department costs associated with commercial fishing activities.*
- (b) The States of Oregon and Washington, among others, determine fees on commercial fish landings based on an ad valorem basis that more equitably and accurately reflect the true value of the fish landed. California's adoption of a similar process for establishing commercial fish landing fees would help to establish consistency among the Pacific coastal states, which would help to establish a level playing field for persons in the fishing industry along the Pacific coast.*
- (c) A contingency fund is needed by the department from its receipts of monies from the commercial fishery based on surpluses of funds from years when landings are high to assure there are adequate funds for department commercial fishing programs in years when commercial landings are down and receipts are low. Further, such a contingency fund will benefit commercial fishing by allowing the department to utilize contingency reserves instead of necessarily placing higher fees on the industry during periods of low landings or reduced ex-vessel fish prices.*

SECTION 2. Section 8040 of the Fish and Game Code is amended to read:

8040. The following definitions govern the construction of this article.

(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "Landing fee ~~tax~~" means a ~~fee privilege tax~~ imposed pursuant to this article *to recover the costs described in Section 8042.*

**SECTION 3. Section 8041 of the Fish and Game Code is amended to read:**

8041. (a) The following persons shall ~~submit pay~~ *an annual* ~~the~~ landing fee to the department according to the fee schedule ~~tax~~ *established by the department determined* pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the landing ~~tax~~ fee imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a landing ~~tax~~ fee.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the landing ~~tax~~ fee imposed under this article.

**SECTION 4. Section 8042 of the Fish and Game Code is amended to read:**

8042. (a)(1) ~~The amount of the landing tax under this article shall be determined by multiplying the tax rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the tax is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the taxes shall be adjusted by a conversion factor as determined by the department by regulation. The Commission shall adopt annually, by emergency regulations, a schedule of landing fees authorized under Section 8041.~~

(2) *The landing fees shall be set as a percentage of between two to five percent of the total value of the fish as landed in the prior fiscal year. The landing fee for each species of fish or complex of fish shall be an ad valorem amount of the average ex-vessel price set forth for that species, based on the landing tickets from the previous year, and the same percentage shall be applied for all species of fish landed and sold. The department shall recommend to the Commission a percentage that is selected such that the total revenue collected each year equals the revenue levels set forth in the Budget Act for the activities described in subdivision (c), plus a reasonable reserve for contingencies.*

*(3) The Commission shall automatically adjust the landing fees schedule each fiscal year to conform with the revenue levels set forth in the Budget Act for these activities. If the Commission determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the Commission may further adjust the annual fees to compensate for the over and under collection of revenue.*

*(4) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual landing fees, shall be adopted by the Commission in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the Commission, or adjustments to the annual fees made by the Commission pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the Commission.*

*(b) The Commission shall establish, by regulation, a timetable for the payment of the annual landing fees.*

*(c) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, inspection and enforcement of facilities (including packing plants), activities and programs related to commercial fishing, including research on fish and their habitats associated with the management and promotion of sustainable fish populations; administrative costs incurred in connection with carrying out these actions; and a reasonable reserve for contingencies. These activities include, but are not limited to:*

*(i) activities undertaken by the department pursuant to authority granted in Part 3 of Division 6 of the California Fish and Game Code;*

*(ii) activities undertaken by the department related to commercial fisheries pursuant to authority granted in Part 1.7 of Division 6 of the California Fish and Game Code; and*

*(iii) activities undertaken by the department related to commercial fisheries within marine managed areas.*

*(d) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall consider:*

*(i) the total costs, as described in subdivision (c), associated with each fishery category;*

*(ii) the fee for, and revenue generated by, any commercial fishery permits; and*

*(iii) any existing special funds associated with that fishery category, including but not limited to the Fish and Game Preservation Fund, the Oil Spill Prevention and Administration Fund, the Federal Trust Fund, the California License Plate Fund, and any reimbursements.*

*(e) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall ensure that the fees reflect the following budget requirements for management of sound fisheries:*

- (i) *not less than the average annual amount expended in fiscal years 1994-2004 for research and management activities related to maintained and enhanced herring resources, and*
- (ii) *not less than the average annual amount expended in fiscal years 1994-2004 for ensuring sustainable salmon populations pursuant to former Section 8055.*
- (f) *The definitions of "fish" in Section 45 of this Code and of "fishery" in Section 94 of this Code shall govern the determination of what constitutes a fishery under subdivisions (c) and (d).*
- (g) *Notwithstanding any other provision of law, any landing fees collected pursuant to this section shall be deposited in the Commercial Fishing Conservation, Management and Research Fund, which is hereby created. The money in the fund is available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes of carrying out the activities described in subdivision 8042(c).*
- (h) *Not later than one year following the first establishment of landing fees pursuant to this subdivision, the department shall recommend to the Commission, and the Commission shall act on, modifications of the commercial fishing permit fees for each fishery category listed pursuant to Chapter 2, Part 3 of Division 6 as necessary to recover costs associated with the issuance and administration of those permits. Permit fees shall be reviewed and modified annually thereafter to ensure the department continues to recover the costs associated with the issuance and administration of permits for each fishery category.*

**SECTION 4. Section 8047(b) of the Fish and Game Code is amended to read:**

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing ~~tax~~ fee imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

**SECTION 5. Section 8051 of the Fish and Game Code is deleted.**

~~8051. (a) The landing tax imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the tax rates in the following schedule:~~

<del>_____</del>	<del>Rate per</del>
<del>_____</del>	<del>pound</del>
<del>(1) All fish, except as otherwise specified</del>	

— in this section .....	\$0.0013
(2) Mollusks and crustaceans, excluding squid	
— and crab .....	.0125
(3) Crab .....	.0019
(4) Squid .....	.0019
(5) Salmon, based only on the weight	
— in the round .....	.0500
(6) Lobster .....	.0125
(7) Abalone .....	.0125
(8) Anchovies .....	.0013
(9) Sardines .....	.0063
(10) Mackerel .....	.0013
(11) Halibut .....	.0125
(12) Angel shark, based only on the weight	
— in the round .....	.0113
(13) Swordfish, based only on the weight	
— in the round .....	.0125
(14) Thresher shark, based only on the weight	
— in the round .....	.0113
(15) Bonito shark, based only on the weight	
— in the round .....	.0113
(16) Herring .....	.0125
(17) Sea urchin .....	.0013
(18) The following fish: .....	.0125
— Barracuda	
— Flying fish	
— Frogs	
— Giant sea bass	
— Saltwater worms	
— White sea bass	
— Yellowtail	

—(b) This section shall become operative on January 1, 1994.

**SECTION x. Sections 8051.3 and 8051.4 of the Fish and Game Code are amended to read:**

**8051.3.** (a) Any person who is required to pay a landing ~~tax~~ *fee* for abalone pursuant to Sections 8041 and 8042 shall pay, in addition to the landing ~~taxes~~ *fees* determined pursuant to Section 8042 ~~54~~, an additional ~~tax~~ *fee* of nineteen and one-half cents (\$0.195) for each pound, or fraction thereof, of abalone, determined as provided in Section 8042.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

**8051.4.** (a) The landing ~~tax~~ *fee* collected pursuant to Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts

necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing ~~tax~~ fee collected pursuant to Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing ~~tax~~ fee collected pursuant to Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing ~~taxes~~ fees pursuant to Section 8051.3 during the 1996-97 permit year. Each of the five remaining members shall have held a commercial abalone diving permit during the 1996-97 permit year, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8051.3, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

## **SECTION 6. Section 8052 of the Fish and Game Code is deleted.**

~~8052. Landing taxes shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:~~

~~—(a) Not less than 90 percent of the landing tax on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.~~

~~—(b) Not less than 90 percent of the landing tax on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section 8560) of Chapter 2.~~

## **SECTION 7. Section 8053 of the Fish and Game Code is amended to read:**

8053. Landing ~~fees~~ ~~taxes~~ imposed by this article shall be paid quarterly to the department within 30 days after the close of each quarter *following notification of the assessment of the fee*. If any landing ~~fee~~ ~~tax~~ is not paid within 30 days after the close of the *quarter* for



which it is due, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department and "the date on which the tax became due and payable" means that date 30 days after the close of the quarter for which it is due. *[question for Leg Counsel - instead of this system, which is a "tax" system, do we need to create a new Part 22.7 of the Rev and Tax Code, Sections 44500 et seq., call it the Commercial Fishing Management Fund, and insert collection language modeled on surrounding programs and fee collection structure in Rev and Tax Code §§ 55001 et seq.?]*

**SECTION 8. Sections 8055 and 8056 of the Fish and Game Code are deleted.**

~~8055. All moneys received as a privilege tax from persons who receive salmon from fishermen under the provisions of this article shall be used only for the purpose of propagating salmon. 8056. Except as otherwise provided in this article, all moneys collected pursuant to this article shall be paid to the department, and shall be expended for the patrol of packing plants, inspection and regulation of the fishing industry, and conservation work for the benefit of the commercial fishing industries.~~

**SECTION 9. *[amending various sections to change "tax" to "fee"]***

8057. If the department determines that any *landing fee tax* or penalty has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

8058. In the event of overpayment of any of the *fees taxes* imposed by this article, the *feetax* payer may file a claim for refund or a claim for credit with the department. Norefund or credit shall be approved by the department unless the claim therefor is filed with the department within six months after the close of the calendar year in which the overpayment was made.

8059. Every claim for refund or credit for overpayment of a landing *feetax* shall be in writing and shall state the specific grounds upon which the claim is founded.

8060. Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing *feetax* or *feestaxes*.

8061. Within 30 days after disallowing any claim for refund or credit for overpayment of a landing *feetax* in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his address as it appears in the records of the department, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

8062. Interest shall be paid upon any overpayment of a landing ~~fee tax~~ at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

8063. If the department determines that any overpayment of a landing ~~fee tax~~ has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

8064. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing ~~fee tax~~.

8065. No suit or proceeding shall be maintained in any court for the recovery of any amount of landing ~~fee tax~~ alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

8067. If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing ~~fee tax~~ within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

8068. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing ~~fee tax~~ due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.

## **Appendix B—DWR Bond Proposal**

## Department of Water Resources

### April Finance Letter - Bond Funds, 2004-05

(Dollars in Thousands)

Description	Prop 13	Prop 50	Prop 204	Other Bonds	Total	Personnel Years
<b>Arroyo Pasajero Flood Control.</b> Proposes funding for improvements to existing flood control facilities at the San Luis Canal/California Aqueduct juncture with the Arroyo Pasajero stream.	\$4,750	-	-	-	4,750	0.0
<b>Flood Control Subventions.</b> Proposes funding for local flood control subventions to fund federally authorized flood control projects.	3,742	-	-	-	3,742	0.0
<b>Yuba Feather Flood Protection Program.</b> Proposes funding for grants to address flooding along the Yuba/Feather River and the Colusa Basin Drain. Baseline support for this program was included in the January 10 budget proposal (\$978,000 Prop 13).	16,855	-	-	-	16,855	0.0
<b>Groundwater Storage Grant Program.</b> Proposes to provide funding for this program. These funds were originally appropriated several years ago, but reverted at the end of 2002-03 because the department did not expend these funds.	77,336	-	-	-	77,336	0.0
<b>Proposition 13 Administration.</b> Proposes funding for the fiscal administration, coordination, and oversight of Proposition 13 funding.	248	-	-	-	248	2.0
<b>Local Water Projects.</b> Proposes to fund eligible construction projects or feasibility studies for various water reliability projects. These funds were originally appropriated several years ago, but were reverted at the end of 2002-03 because the department did not expend these funds.	-	-	3,289	-	3,289	0.0
<b>CALFED Watershed Program.</b> Proposes funding for competitive grants to carry out the CALFED Watershed Program. Proposal requests \$250,000 and 2 positions for administration of this program. Also proposes budget bill language to enable funding to be encumbered through 2006-07.	-	19,250	-	-	19,250	2.0
<b>CALFED Watershed Program.</b> Proposes additional support for this program. Baseline support for this program was also included in the January 10 budget (\$813,000 Prop 50).	-	872	-	-	872	0.0

<b><i>CALFED Conveyance Program - Delta Cross Channel.</i></b> Proposes funding to complete the technical feasibility of reoperating the Delta Cross Channel, constructing a through-Delta facility, and restoring Franks Tract. These projects are part of stage 1 actions in the CALFED ROD.	8,800	-	-	-	8,800	0.0
<b><i>CALFED Conveyance Program - Clifton Court Fish Screens.</i></b> Proposes to collect information to determine the adequacy of fish screens to be installed at a new State Water Project intake at the north end of Clifton Court Forebay.	1,101	-	-	-	1,101	0.0
<b><i>CALFED Conveyance Program.</i></b> Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$858,000 Prop 13). No new Prop 50 funds were allocated to the conveyance program.	1,336	-	-	-	1,336	0.0
<b><i>CALFED Ecosystem Restoration Program.</i></b> Proposes funding to support DWR's Aquatic Restoration Planning and Implementation section and 4 positions for planning and implementing habitat restoration actions in the Yolo Bypass. This proposal continues a program previously supported by Proposition 204 and supports implementation of the CALFED ROD, including the Ecosystem Restoration Program Plan and Multi-Species Conservation Strategy.	-	1,000	-	-	1,000	0.0
<b><i>CALFED Ecosystem Restoration Program.</i></b> Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$553,000 Prop 50).	10,016	579	-	-	10,595	0.0
<b><i>CALFED Environmental Water Account.</i></b> Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$570,000 Prop 50).	-	31,768	-	-	31,768	0.0
<b><i>CALFED Levee Program.</i></b> Proposes \$3.1 million additional support for this program. Baseline support for this program was also included in the January 10 budget (\$1.5 million Prop 50). Also proposes \$16.8 million for program implementation.	-	19,873	-	-	19,873	0.0

<b>CALFED Storage Program.</b> Proposes additional support for the storage program. Baseline support for this program was included in the January 10 budget proposal (\$5.4 million Prop. 50).	-	13,639	-	-	13,639	0.0
<b>CALFED Science Program.</b> Proposes support for this program.	2,030	-	-	-	2,030	0.0
<b>CALFED Drinking Water Quality.</b> Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$146,000 Prop 50).	2,022	15	-	-	2,037	0.0
<b>CALFED Water Supply Reliability.</b> Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$1.8 million Prop 50).	-	30	-	-	30	0.0
<b>CALFED Water Use Efficiency.</b> No new Prop 50 funds were provided for this program. Baseline support for this program was included in the January 10 budget proposal (\$845,000 Prop 50).	-	0	-	-	0	0.0
<b>Drought Panel Recommendations.</b> Proposes funding for grants to implement the drought panel recommendations consistent with the level of funding approved in the 2003-04 Budget Act .	-	6,400	-	-	6,400	0.0
<b>Desalination.</b> Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$112,000 Prop 50).	-	137	-	-	137	0.0
<b>Integrated Regional Water Management.</b> Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$395,000 Prop 50).	-	5	-	-	5	0.0
<b>Colorado River.</b> Proposes local assistance funding for the Colorado River program.	-	300	-	-	300	0.0
<b>Drinking Water Pilot Projects.</b> No new Prop 50 funds were provided for this program.	-	0	-	-	0	0.0
<b>Water Conservation Projects.</b> Proposes to restore funding for various water conservation projects consistent with the schedule approved in the 2003-04 Budget Act. Proposes \$18 million Prop 13 for infrastructure rehabilitation grants and \$8.3 million Prop 13 for agricultural water conservation loans and grants.	26,282	-	-	10,574	36,856	0.0

<b><i>Flood Protection Corridor Program.</i></b>	222	-	-	-	222	0.0
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Proposes to restore support budget to its original funding level. Also proposes to revert \$1.1 million in local assistance funding that was over allocated to this program in the 2003-04 Budget Act .

<b>Total</b>	<b>\$154,740</b>	<b>\$93,868</b>	<b>\$3,289</b>	<b>\$10,574</b>	<b>\$262,471</b>	<b>4.0</b>
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